

The Institutions or principles
of the
lawes and statutes of
Englande, newly and
very truly corrected & amended
with manie newe and
goodly addytions, very
profitable for all sort
es of people to
knowe, lately
augmented
& imprinted.

An. D. 1547.



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22 The prologe of the aucthour
to the reader.

Demosthenes the re-
nowned Oratour despyeth
lawe in this wyse. The lawe
(sayth he) is the thyng that
al men ought to obey for ma-
ny shylls, but in specyallie
because lawe is the innens

tyon, and also the gyfte of God, the decrees of
pudent men, the chastysment of wylfyll, and
bnywysful offces, a spynallie the comon suretye
of a Realme, wherby it becommeth all men to
lyue, whiche be conuersaunt in the same. Thys-
sippus also, an excellent phylosopher, thus be-
gynneth his booke of lawes.

¶ The lawe is kynge of all, aswell diuine as
humayne affayres, the president and cōptroller
of thynges honest, and dys honest, the Prynce,
Captayn, and ruler, of the iuste, and iniust, and
it is of Ciuile creatours, aswell the commaun-
der, what they ought to do, as the forbydder,
what they ought nat to do. These aunceyke
sayenges of wylse men, assuredly ought muche
to inflame vs to the knowlege of those thyges
without whiche we shalbe esteemed no men, but
as brute and savage beastes. Let vs nat com-
mytte, that it be sayde of vs Englyshemen, as
it was ones sayde of the men of Athens, that
is, that we make verpe goodlye and profytable
lawes, but we vse the nat. Certaynly there can
be no greater repzoche to a common weale then
this

Celsus Romanus

The p[re]face.

this. One lesson I wolde we lerned of the ancient lawyer Romaine named Celsus, & that is this. The knowledge of lawes is nat to bere awaye the wordes but the p[er]th and power of them. Thys he wrote b[ea]use there be many which whē good and hol[some] lawes be made, seke nat to se them executed, and obserued, but rather howe to defraude thē and to haue them vnexecuted, which kynde of people after p[er] sentence of mo[st]e ancient lawmakers be no lesse worthe of reprobation than they which do c[on]trary agaynst the lawe. Howe, they do (saye they) agaynst the lawe whiche do the thyng, p[er] the lawe forbydeth. And they defraude a lawe or statute, which the wordes of the lawe saued, do circumuent the meanyng and sentence of it. Let vs then so reade the lawes, that we may beare awaye the sentence and mynde of them, and so fultyll and obserue the lawes, that it may appere that they were nat made in vayne

Thus
doynge, we shall please God, we shall
be obedyēt subiectes to our Prynce
and fynally we shall seke our
owne weale and
sauety.



what is lawe.

Fo.iii.



The lawe is the dyrec-
cyon & mynistracion of Justice
And iustice is (as thempereour
Justinian sayth in hys Insti-
tucyons) a constant and per-
manente wyll to render vnto
every person his ryght & dury

The learnynge oz prudence of lawe, is a
knowlege of diuine & humane thynges a sciēce
and perfite notyce of equitye and iniquyte, of
ryght and wronge.

Nowe for as muche as a great porcyon of
the prudence of science of the lawes of this re-
alme of Englāde cōsisteth in the perfyte know-
lege of estates, whiche men haue in landes and
tenemētes: we shal fyist as compēdiouly, and
as simply and playnly as we can, treatte some
what of estates.

A diuision of estates.



Ye shall therfor vnder-
stande, that whosoever hath
any state in landes oz tenemen-
tes, eyther he hath in the same
onely a chatell. oz a holde, oz
inherytaunce. Yf he hath an
estate but for terme of certayn

yeeres, oz at his lanloides wyll, so it is called
a chatell, yf for terme of hys lyfe oz of another
mans lyfe, it is called a frehold. And if he hath
it to hym and to his heyyes in fee simple, oz in
taylor: then he hath a state of inherytaunce.

a diuision of estates

Chatell.

Frehold.

**Inher-
ytaunce.**

Conatus for terme of yeeres.

A.iii.

Tenant

Tenaunt for yerres.

Tenaunt for terme of yerres, is he to whiche landes or tenementes be lette for terme of certayne yerres, as is agreed betwene the landlozde and the tenaunte. And when the person to whom suche lease is made doth entre by force of the sayde lease, and is in possession of the same then he is called tenaunt for terme of yerres.

Rente reserved.

And here ye shall note, that yf the lessour, þe made the lease hath reserved vnto hym a yerrely rent vpon the sayde lease (as it is accustomedly vsed to be done) yf the rent be behynde vnpayde, it shalbe in his election eyther to entre & distrayne for the rent, or to hyng an accyon of Dette agaynst him at the lawe for þe arrerages of þe same. But in this case it is requisite, that the lessour were seased of the landes or tenementes at the tyme of the makynge of the lease for otherwyle it shalbe a good plee in the accyon of Dette for the tenaunt to say, that the lessour had nothyng in the lande and tenement at the tyme of the lease made: excepte the lease were made by dede ended, for then the plee shall nat lye in the tenauntes mouthe to plede.

Action of Dette.

A good plee,

Iuerye of season made nat in lease for terme of yerres.

And it is to be knowen, that in a lease for terme of yerres, whether it be by dede or without dede, there nede no iuerye of season to be made to þe lease, but he may entre when he wyl by vertue of his lease, without any further ceremony of the lawe.

Also yf a man leseth landes for terme of yerres, though the lessour chaunseth to dye before the lease doth entre, yet he may entre wel prough. Otherwyle it is where iuerye of season is to be made, as in free holdes and inheritaunce.

Also

Tenaunt at Wyll. Fo.iiii.

Also yf the tenaunt for yerres doth wast, the lessour may bypunge an accyon of wast agaynst hym, and shal recover the place, wasted, and his treble damages.

Also yf a lease for yerres be made of .ii. soures all thynges, and after the one is recovered the lesse shall holde the other, and the rent of ferme shalbe appoyrponed. *W. 12. B. 8.*

Also yf the tenaunt for yerres graūtereth a greater estate in the lande, than he hath hym selfe, wherby he conceyeth the fee simple to hym selfe he shall forsayte his lease of terme.

Waste.

3⁶ damages

*for say-
ture*

Tenaunte at wyll.

Tenaunt at wyll is he to whome landes or tenementes be leased to have & holde the same at the wyll of the lessour. And in this case the lessour may put out his tenaunt at what tyme hym lysteth. But yet neuertheless, yf the tenaunte haue sowed the groundes with corne, in this case yf the lessour wyll entre and put out his tenaunte before harveste, the lawe wyll gyue hym free comynge and gornge to reape and cary his corne awaye without any punysshement or damages to be sustayned for his so doyng bycause he knew nat at what tyme the lessour wolde entre. But otherwyle it is of the tenaunt for certayne yerres, for yf he soweth the grounde, and the terme of the lease be come out & expyred before the corne be ripe, in this case shal the lessour or he in the reuercion may entre & take the corne, bycause it was the folye of the tenaunt to sowe the grounde, knowynge the ende of his terme.

In lyke wyle tenaunt at wyll shal have free

Will.

coms

Tenaunt at wyll.

comynge and goynge after the tyme of the lessours entree, to cary away his houfolde stuffe and goodes to a reasonable space.

Dyltres
or els ac-
cyon of
Dette:

CY: Shall also vnderstāde, that he þ maketh a lease at wyll, may reserue an annuall or peresly rente, in whiche case yf the rent be behynde, he may entre very well and dylstrayne þ goodes and chatelles of the tenant, or at his election he may bynne an accyon of Dette agaynste hym.

Waste.

Also it is to be knowen, that tenaunt at wyll of a mess or tenaunt is nat bounde by the ordie of the lawe to sustayne and repayre the houses that be decayed and runnouse, as is the tenaunt for peres, and therfore none accyon of Waste lyeth agaynste hym. Yet yf he do wyllful waste as yf he plucketh downe the houses, or cutteth downe the trees: it hath bene thought by the sages of the lawe, that the lessour may bynne an accyon of Trespas agaynste hym and shal recover his losses therby sustayned.

Trespas

And yf suche a tenaunt dye and his heyre entre in that case the lessour may haue an accion of Trespas agaynste the heyre.

Tenaunt by coppe of court rolle.

There is another kynde of tenaunt at wyll whiche is called tenaunt by coppe of the court rolles. And this is when a man is leased of a maner within whiche, it hath bene vntyd tyme out of mynde, that the tenants within the boundes & precincte of the sayde maner, haue holden lādes and tenementes to them and to theyr heyres in fee symple, fee taylor, or for tyme of lyfe, at the wyll of the lord and bynne to the custome of the maner. And such

tenaunt

Tenaunt by copy.

FO.V.

tenaunt, can nat alpeue oz sell his lande by hys dede, for yf he do, the lande oz tenement that is so alpened and solde, is forsayre into the lordes handes, but yf he wyll alpeue hys cōpy holde lande to another, he must accordynge to the custome, come into the lordes court, and there surrendre it into the lordes hande, to the behoufe and vse of hym that shall, haue the state. The forme of whiche surrender is comenly vsed to be this.

Ad hanc curiam venit J. de B. et suorum reddidit in eadem curia vnu mesuagium. &c. in manus dñi ad vsum L. de D. et heredu suorum vel heredum de corpore. &c. Et super hoc venit predictus L. de D. et cepit de dño in eadem curia mesuagium predictum, habendum et tenendum sibi &c. ad voluntatem dñi secundum consuetudinem manerii, faciendū inde redditus, seruicia, et consuetudines inde prius debitas et consuetas. &c. Et dat domino pro fine. &c. Et fecit domino fidelitatem.

These as I sayde be called tenantes by copie of court rolle, because they haue none other eydence to shewe cōcernynge theyr lādes, save only þ cōpyes of þ rolles of theyr lordes court.

Neither can these tenants sue oz be sued for suche landes, in the kynges court, be wytt, oz otherwysse, but yf they wyll in any wyse implede oz sue others for suche cōpye landes, they must do it by way of playnt in the lordes court after this sorte.

J. de B. querit versus L. de D. de placito terre, videlicet de vno mesuagio .xl. acris terre, .iiii. acris prati. &c. cum pertinens. Et facit hypothecationem sequi, querelam istā in natura

J. b.

byenis

Tenaunt at hyl
canot alio
out his lorde
consent

Surrender
die

The forme
of surren-
der.

The forme
of the
playnt.

Of courte rolle,

hrentis dñi regis assise moris antecessoris ad co
mune legē vel. &c. plegii de psequēdo. f. 6. &c.
¶ Nowe althoughe some such tenants haue
an inheritaunce accordyng to the custome of þ
maner, yet in very dede they are but tenants
at the wpll of the lord. For as some mē thynke
yf the lord wpll expell them and put thē forth
they haue no remedye at all, but to sue vnto
thē lord by waye of petition, despyng hū
to be good and gracious lord vnto them. For
yf they myght haue any remedye by the lawe
then shulde they nat be called (saye they) tenants
at the wpll of the lord after the custome of
the maner. But other men of no lesse learnynge
and prudence haue bene of contrarie sentence:
as lord Wyā chiefe iustice, in þ tyme of kynge
Edwarde the iiii. whose opinion was all wayes
that yf suche tenant by the custome (payenge
hys seruyces) be elected and put forth by hys
lord without cause reasonable, he may verpe
wel bynne & maynteyne an action of Trespas
agaynst his lord at the cōmon lawe: as appea
reth termino Hilarii anno. xxi. E. iiii. Also lord
Danby chiefe Justice in lykewyse, was of the
same iugement: as appeareth termino. Mi. an.
vii. E. iiii. where he sayeth, that the tenant by
the custome is as well inheritable to haue hys
lande after the custome, as is he that hath a
free holde at the common lawe, but the deterr
mynation of this question I remyt to my great
maysters, which can solue the knottes and eni
gmes of the lawe.

Acco of
Trespas

¶ Forasmuch as yet syl of this matter, *Lat
sidi certant & adhuc sub iudicis est.*
¶ Also ye shall vnderstande, that the vsage of
some

Tenaunt by coppe Fo. vi.

Some manours is when the tenaunt wyl surrender is lande to the vse of another, that he shall take a wand or rod in his hande, and deliuer it to the steward of the court, and the steward shall deliuer the same wand in name of scyptin to hym that shall take the lande: and suche a tenaunt is called, tenassit by the verge. Wyth other customes there be of surrendryng of copy holde landes, whiche here for to descrybe I wyl omitt. And forasmuche as tenautes by custome of the Manour, haue by the course of the comon lawe no free holde: therfore they be called tenautes of base tenure.

¶ Also yf suche a tenaunt letteth to ferme his coppe holde lade, for longer tyme then a twelfe moneth and a day without the lordes licence it is a forsaiture of his lande to the lord.

¶ And knowe ye that yf this tenaunt sell any tymbre, that groweth vpon the lande but onely for the reparation of the same, this is waste and a forsaiture of his coppe holde.

¶ Hitherto haue I treated of the fyrst membre of our diuision, that is to wyt, of chatelles for as I sayde, al leases for terme of yerres, and at wyl be accepted in the lawe but as chatelles and be copyied vnder that name saue that they be called chattelles reals, where as

kyne, oxen, horses, money, plate,

corne, and suche lyke be cal-

led chattell personalles

Nowe we

wyl procede to the explanation of the

second membre that is to

saye, of free

holdes.

Chattelle
reall and
personel.

Free

A dyuysyon of free holdes.

Free holdes or franke tenementes a man may haue in sondry wyse, for eyther he is leased for terme of his owne lyfe, or for terme of anothers lyfe. Yf he be leased for terme of his owne lyfe, eyther he hath gotten suche estate by way of purchase, or els the lawe hath impleied hym therunto. I call it by purchase, whether he cometh vnto it by hys owne bargaynyng and procurement, or by the gyfte of his frende, and I call it by the operacion and intpylunge of the lawe, when a man marryeth a woman that is an inherytre, and hath yssue by her, and she dyeth, nowe shall he haue the landes durynge his lyfe, by the course of the lawe, and shalbe called ternaunt by the curte

**Ternaunt
by the curte
lyfe.**

In lyfetyll, yf a man be leased in fee simple: or fee taylor of landes, and take the a wyfe, and he dyeth, the lawe gyueth vnto the wyfe the thyrde parte of our husbandes landes, for terme of her lyfe, and she shalbe called ternaunt in dower.

**Ternaunt
in dower**

I Ternaunt for terme of lyfe.

Ternaunt for terme of lyfe, is he that holdeth lades or tenementes for terme of his owne lyfe, or for terme of anothers lyfe. Howe be it the most frequent, and comon manner of speakyng, is to call hym that hath estate for terme of his owne lyfe, ternaunt for lyfe, and hym that hath estate for terme of anothers lyfe, ternaunt pour terme douter vie, that is to saye, ternaunt, for terme of anothers lyfe.

Ye shall note, that lyke as he that maketh the lease is called the lessour, and he to whome the

Tenaūt for terme of lyfe. Fo.vii.

the lease is made, is called the lessee, so he that maketh a fessment is called the lessour, & he to whom the fessment is made the lessee.

¶ Also yf tenaūt for terme of lyfe, or tenaunte for terme of another mans lyfe do waste, the lessour or he in p reuerston shal mayntayn very well an accyon of Wast agaynst hym, and shal by the same recouer treble damages.

¶ fynally, ye shal vnderstande that by an acte of Parlyament made in the .xxvii. yere of oure soucraynge lord that now is, kynge Henry pth epght, it is enacted that no free holde, nor estate of in heritaūce shal passe nor toke effecte by reason of any bargayne and sale, except that same be made by wyptynge indented, sealed, and enrolled, in one of the kynge maiestyes courtes at Westm, or els within the same countye where the lande doth lye, before the custos Rotulorum, and .ii. Justices of peace and the clerke of the peace of the same countye, or two of them at least, of whiche the sayde clarke shalbe one, and that suche inrollement be made within syxe monethes after the date of suche wyptynge. And for the enrollement of euerye suche wyptynge, where the lande compysed therein is nat aboute the yerely value of fortye shyllinges, they shal take two shyllinges that is, twelue pence to the Justices, and xii. pence to the clarke. And yf the lāde be aboute the yerely value of xi s. then they shal take .v. s. that is, .ii. s. and .vi. d. to the Justices, and .ii. s. and .vi. d. to the clerke, whiche shal enroll and ingrosse suffyciently in parchmente suche dedes and wyptynges, and at euery yeres ende he shal deliuer the same to the Custos rotulorum of the same countie, to remaine

Wast. punished so
3rd damages.

An. 27.
H. 8.

Tenauntes by the curtesye.

In his custodie amonge other recordes of þe same countrey, so that the parties resortynge thither may se them. Doubted, that this extende nat to any tenementes or hereditamentes linge within any cytie or towne corporate wherof þe Shaires Recorders, or other officers haue authorite or haue lawfully vſed to enrolle any euidences or wyttynge within theyr precynce.

Tenaunt by the curtesye.

Tenaunt by the curtesye of Englande is he that hath maryed a wyfe inheryted, & hath had issue by her, & she is deade, in this case the lawe of Englande pryteth and suffreth the husbände of suche wyfe to receyue and kepe still all his wyues lande that she had epyther in fee simple, or fee taylor so longe as he liueth. And this is by the curtesye and urbanitie of Englande, for this thyng is vſed in none other countrey nor regyon.

child had cry

¶ But in this case it is requyred þe the chyld be vntill, that is to saye, be bozne and brought forth into this worlde aloue & therfore the common lawe is, & hath ben, that onles þe chyld be harde crye, the father shal nat be tenaunt by the curtesye, for the onely proue and argument of lyfe in an infant bozne is þe baggie & cryeng.

¶ Ye shal furthermoze vnderstande, þe onlesse the husbände be in actual and reall possession of his wyues landes, and sealed of them in here ryght, he shal nat be tenaunte by the curtesye after her deathe. And therfore yf landes dytete to a mans wyfe, so that she is tenaunte in the lawe, and to euery mans accion, yet yf the husbände haue nat made an actual entre durynge couerte

Tenaūt by the curtesye. Fo. viii.

couerture and matrymony betwene the he shall nat be ternaunt by curtesye, for it shall be reputed and iudged his soly and nechygence that he wolde nat entre in her lyfe tyme.

¶ Whetherwyle it is of aduoufōs, rētes, comōs and such other thinges, which for hwith, whē they disceude, be in a man or woman without any entre or further ceremony of lawe.

¶ Note that yf ternaunte by the curtesye of Englande wyl suffre or make any wast in the landes or tenementes that he so holderthe, he is punysshable therfore, by actiō of wast brought by hym in the reuersyon.

¶ Also it is to be kno wen that of thynges that ben in suspence, a man shall nat be ternaūt by curtesye, and therfore yf a man be ternaūt in fee symple of certayne lande, and doth cōtermarry with a woman that is the scygnorēsse or ladye of the same and hath yssue by her, & she tperth, yett shall he nat be ternaunt by the curtesye of the lordshyppe or scygnory, bycause hym selfe is ternaunt of the lande, and therfore the lordshyppe is suspended for the tyme, for a man can nat be both lord and ternaunt of one thyng, but if he had nat bene ternaūt of the lande he shulde haue had the lordshypp after the death of his wyfe by the curtesye of Englande very well.

¶ Also note that of a ryght onely a man shall nat be ternaunt by the curtesye, as yf a woman sole sealed in fee of lande or tenementes, be dysseised, and after take a husbande, and they haue yssue, and she dye before any reuerie made, the husbande shall nat be ternaunt by the curtesye.

¶ Note further yf of a reuerfyon, a man shall nat be ternaunt by the curtesye, as yf a woman sole

By
discent of aduoufōr
and may entre wth
ceremonie of the lawe

Waste.

not ten and lord of on
thing

Note.

Note.

intert by cart. of a
confion.

Tenaunt in dower.

sole leysed of lade in fee, make a lease to h. for
terme of lyfe, after taketh a husbände and they
hath yssue & the dye, leynge h. lease for terme
of lyfe, the husbände shal nat be tenaunt by the
curtesye.

Of tenaunt in dower.

Tenaunt in dower, is she that hath bene
maried to an husbände h. was durynge
the marrymonye, betwene the, leased of
landes or tenementes in fee symple, or fe rayle
whiche is now deade and the leysed of h. thyrde
parte of her husbandes layde landes for terme
of her lyfe. For by the comon lawe of the lande
yf the husbade be at any tyme durynge h. cou-
ture leased lawfully whether it be by purchase
or by dyscent, eythre in fee, or in rayle, and yf
his wyfe ought to be endowed by the course of
the comon lawe of the thyrde sote. And in some
places by an auncient custome she shalbe indowed
of the moite, yea & though the husbände were
never leased actually durynge the couerture, yet
yf the landes be cast vpon hym by the lawe, so
that h. lawe calleth hym tenaunt to every mans
accyon, it suspecth the woman to demaunde her
tower, for it were vnrasonable, that the neygh-
gence and slackenes of entrynge of the husbade
shulde hurte the wyfes tytle.

Dower
of the co-
mo lawe.

Dower
by custome

The lack of
the husbände shal
not p. in the
wife

Tenaunt
by h. cur-
tesye.

Otherwyle it is, as is sayd before, of tenaunt
by the curtesye, for yf landes dysceded to a wo-
man couert and the husbände for clothfulness
or neglygence doth nat entre in his wyfes lyfe
he shal nat be tenaunt by the curtesye, for by al
lawes h. wyfe oweth obedience and subiection

to her husbände and therfore she can nat cōpell hym to entre, but when landes dyscended to the wyfe, the husbände onely hath power to entre at his pleasure.

¶ And ye shall vnderstande, that onles the wyfe be passed the age of .ix. yeres at the tyme of her husbādes death, she shal nat be endowed by the common lawe.

¶ But it is to be knowen that a woman may by dyuerse wayes estoppe and prelude her selfe of her dower: as yf she commyt any cryme, for which she is attaynted of treason, murder, or felony, she gette in this case no dower, nat wistanynge she hath obtayned her pardone.

¶ Also yf after the death of her husbāde she taketh a lease for terme of lyfe, of þ same lādes wherof she is indowable, she loseth her dower of the same. Moreover yf she departeth fro her husbände and lyueth in adnoure with another man, and is nat reconciled agayne to her husbände wout coerciō of the ecclesiasticall power she lesethe her dower after her husbādes death. she shalbe also barred of her dower if she wyl withholde from the heyre, the charters, and evidence, cōcernynge that lāde wherof she asketh dower: But none other, saue the heyre, can wthholde her dower for this cause.

¶ It ought nat to be vnkowen also of what thyng she may demaūde dower, and of what thynges nat. Of lādes, messuages, aduousons, rent charges, rett seruyces, or seignories ingrossed or other wyse, of vyllaynes, of cōmons certayne, of estouers certayne, of mylles, and offyces, or of the profyte of them, she is dowable. But of cōmons, and estouers sans nombze, al-

B. l.

to of

A woman
that haue
no dower

for whiche cause a
woman may lose her
dower.

of what things a
woman is dowable

Of tenaunte.

so of annuities, of homages, of thynges of pleasure, as of scrupce of paymēt of roses, and semblable, the which nat be endowed.

¶ There be yet two other kyndes of dower the one is called dowment ex assensu patris, & is to say, by thassent of the father, & the other is called dowmēt de la plus beale partie. That is to saye, of the sayrest parte.

**Dow-
mente ex
assensu
patris.**

¶ Dowment ex assensu patris, is whan the father is seased of landes in fee simple, and his sone whiche is heyre apparant, endoweth his wyfe, at the churche doze: whā he is espoused of parcell of his fathers landes, with the assent of his father in wyrtynge testyfyng the same assente yf in this case her husbāde dye, she may forth with entre into the lande, so assigne vnto her without further appoyntyng of process of lawe, althoughe the father of her sayde husbāde be yet alque and in actuall possession of the lande. But yf she thus do, and take her to this endowmēt at the church doze: she can nat haue her dower also by the comon lawe of the chyrche parte of all her husbādes landes or any percell of them, howbeit yf she wyl refuse this assignement made vnto her at the churche doze and demaunde dower at the common law, she may so do very well.

**Dow-
mente ad
hospitium
ecclesie.**

¶ A man may also endowe his wyfe at the tyme of thespousayles, of his owne landes, the which he hath in his owne possession, and that dower is called dower, ad hospitium ecclesie that is to saye, at the churche doze.

**Dow-
mēt de la
pl^e beale.**

¶ Dowment de la plus beale, that is to say dowmēt of the sayrest parte whā in this case whā a mā is seased of lādes, whiche he holdeth

of

Of another man by knyghtes Certuyce, and of o-
ther landes whiche be of socage tenure, & hath
issue, whiche is within the age of .xiii. yeres &
yete, and the wyde of whom the lande is holde
by knyghts service, entred into the lande holden
of hym and the mother of the chyldre entred in
to the socage tenure as gardeyne in socage, yf
in this case the woman wyll bypunge a wytte of
dower agaynst þe wyde whiche is a gardeyne in
cheualrye, he may plede the speial matter and
shewe, how he as gardeyne in socage hath so
much lande, and therupon pray the court that
he may be suffred to endowe her selfe of so
much lande, beyng in her owne custodye, as
amounteth to the thyrde parte of the hole landes.
¶ And then the iugement shalbe, that the gar-
deyne in cheualrye shal retayne the lande holde
of him quyte from the woman dnyng the nō-
age of the warde. After whiche iugemente and
sentence gyuen, he may go, and in presence of
her neyghbours, and endowe her selfe of þe best
part of that whiche is in her custodye, amounts
to the thyrde parte of the hole, and then is
he called tenant in dower de la plus beale.

3rd of the whole

¶ Finally ye shall vnderstande, that by a sta-
tute made in the .xxvii. yere of our most drede
Henri. 8. *Anno. 27*
solitarye Lord Kyng Henry the eyght, it is *Capt. 106*
enacted, that where dyuerse persones haue esta-
les made to them and to theyr wyues, and to
the heyres of the husbände, or to the husbände
and wyfe & the heyres of theyr two bodyes, be-
gotten, or the heyres of one of theyr bodyes, or
by terms of bothe or one of theyr wyues, or to a-
ny other persons and theyr heyres to the vse of
the husbände & wyfe or to the wyfe alone, for
her

Of tenaunte.

her ioynture: in euery such case the womā shall
 not be suffered to demaunde any dowry of the
 respdue of her husbandes landes by w^home she
 hath her ioynter; agaynst any tennant of s^h lāz
 But in case she hath no suche ioynter: she may
 the demaunde her dowry after the cours of the
 cōmon lawe p^{ro}uoyded neuertheles, s^h yf suche
 women be lawfully expelled frō thei ioynter
 o^r any parte therof without fraude o^r couyn;
 the shall they be endowed of s^uch lādes of thei
 husbandes lādes for as much as the lādes shall
 amou^r vnto, out of whiche they were so expul
 red and put forthe.

¶ Prouyded also, that yf landes o^r tenem^{ts}
 be assured to any womā after marriage for
 terme of lyfe o^r otherwyle in ioynture (except
 it be by acte of parliament) and the wyfe ouer
 lyue her hulbande in whole tyme the ioynture
 was made: in this case s^h wyfe may refuse s^h lā
 des so appoynted vnto her ioynture, and haue
 her dower at s^h cōmon law, of such lādes as her
 husbande was seased of, at any tyme duringe
 the couerture.

*the asson of the husb.
 w^hich the wife her
 dower*

¶ Also yf the husbande commytteth treason
 murdre, o^r felonye for whiche he is attaynted,
 the wyfe shall nat haue he dower.

*a husbande entering in
 religion the wife
 shall not be endowed
 till his death.*

¶ And note that yf the husbande entre into
 religion, and is professed, the heyre shall entre
 into the lande, but the wyfe getteth no dower
 yll the husbande dyethe. **¶** 3. 2. c. 2.

*no alien is dowered
 but by act of parlt.*

¶ And lykewyle if a mā seased of lādes taketh
 a wyfe that is an alien bozne & dyeth, she shall
 nat be endowed, except she be made Denizen by
 acte of parliament. **¶** 3. 1. c. 6. And note that when
 the wyfe bypynge a wyette of dower, & reconer
 her

A deuision of inheritaunce. Fo.xi.

her ryght the Mall recouere no damages, but where her husbände dyed sealed of the landes recouered.

Dama-
ges.

¶ A deuision of inheritaunce.

Hether I haue spoken of free holdes, nowe it remayneth to treat of inheritaunces, nat that inheritaunces, be no free holdes, for they be free holdes also, but of the other estates of which I haue hereto fore treated be onely free holdes, & of no hygher nature where as a state of heritaunce, althoughe it be a free holde in dede, yet it is nat to be called by name, lyth it is after moze excellent and greater estate. But ye Mall vnderstande, that of inheritaunces some be of moze amplytude and excellency the other some be, as that inheritaunce which is pure symple, and without lymytacion of what heyres, whiche kynde of inheritaunce is called fee symple But when I make a lymytacion of what heyres, then it is called fee taylor of whiche also be two sortes, as hereafter moze at large shalbe declared. Nowe therfore the nature of fee symple is set forth with our accustomed cōpendyousnesse.

signifye not in heritaunce

¶ Of fee symple.

Fee taylor

Fee symple is (as I sayde) the most ample and large inheritaunce that can be in this Realme dysposed or excoitate, as if whiche a man hathe to hym & to his heyres symple without any further lymytacion, for wherere they be of his owne bodye begotten or nat, so that they be the nexte of his kynne, and within the degrees it suffyseth.

¶ So the, tenant in fee symple is he that hath landes

B.iii.

landes

Cf tenaunte.

her ioynture: in euery such case the womā shall
 that be suffered to demaunde any dowry of the
 residue of her husbandes landes by whome she
 hath her ioynture, agaynst any remain of þe lāte
 But in case she hath no suche ioynture: she may
 she demaunde her dowry after the course of the
 cōmon lawe prouyded neuertheles, þat yf suche
 women be lawfully expelled fro the ioynture
 or any parte therof without fraude or couyn:
 the shall they be endowed of þe residue of the
 husbandes landes for as much as the lades shall
 amouir vnto, out of whiche they were so expul-
 led and put forth.

¶ Prouyded also, that yf landes or teneme-
 ntes be assured to any womā after marriage for
 terme of lyfe or otherwyle in ioynture (excepte
 it be by acte of parlyament) and the wyfe ouer-
 lyue her husbāde in whole tyme the ioynture
 was made: in this case þe wyfe may refuse þe la-
 des so appoynted vnto her in ioynture, and haue
 her dower at þe cōmon law, of such lades as her
 husbāde was seyled of, at any tyme duringe
 the coverture.

¶ Also yf the husbāde commytteth treason
 murdre, or felonye for whiche he is attaynted,
 the wyfe shall nat haue her dower.

¶ And note that yf the husbāde entre into
 relygion, and is professed, the heyre shall entre
 into the lande, but the wyfe getteth no dower
 yll the husbāde dyethe. **¶** 3. 2. c. 2.

¶ And yf he wyle if a mā seyled of lades taketh
 a wyfe that is an Alen bozne & dyeth, she shall
 nat be endowed, except she be made Denizen by
 acte of parlyamēt. **¶** 3. 1. 6. And note that when
 the wyfe bypynge a wyette of dower, & recovert
 her

*the assent of the husb.
 wileth the wife her
 dower*

*a husband entering into
 religion the wife
 shall not be endowed
 till his death.*

*no Alen is dowered
 but by act of parli.*

A deuision of inheritaunce. Fo.xi.

her ryght she shall recouere no damages, but where her husbände dyed sealed of the landes recouered.

Damas
g. 8.

¶ A deuision of inheritaunce.

Here I haue spoken of free holdes, nowe it remaineth to treate of inheritaunces, nat that inheritaunces, be no free holdes, for they be free holdes also, but of the other estates of which I haue hereto fore treated be onely free holdes, & of no hygher nature where as a state of inheritaunce, althoughe it be a free holde in dede, yet it is nat to be called by name, yeth it is after moze excellent and greater estate. But ye shall vnderstande, that of inheritaunces some be of moze amplytude and excellency the other some be, as that inheritaunce which is pure symple, and without lymytacion of what heyres, whiche kynde of inheritaunce is called fee symple. But when I make a lymytacyon of what heyres, then it is called fee taylor of whiche also be two sortes, as hereafter moze at large shalbe declared. Nowe therfore the nature of fee symple is set forth with our accustomed cōpendyousness.

significat in herita

¶ Of fee symple.

Fee taylor

Fee symple is (as I sayde) the most ample and large inheritaunce that can be in this Realme dysposed or exogitate, as if whiche a man hathe to hym & to his heyres symple without any further lymytacyon, for wherere they be of his owne bodye begotten or nat, so that they be the nexte of his kynne, and within the degrees it suffyseth.

The thē, tenant in fee symple is he that hath landes

B. iii.

landes

Of fee symple.

*(he)res make shew
of the purchase*

lādes or tenemētes (whether it be by purchase or by dyscent) to him and to his heyres or assignes for ever. For yf a man will purchase lādes in fee symple, he must nedes haue these wordes ~~(his heyres)~~ *in his purchase*, for these be þe onely wōrdes that make the state of inherytaunce. Therfore yf landes be gyuen to a man for euer and no mencyon be made of his heyres: he hath an estate but for terme of his lyfe, because these wordes ~~(his heyre)~~ do lacke.

Deuylse.

¶ Yet neuertheles, yf a man by hys testament doth deuylse landes to another in suche place or case wher the custome or lawe wyll serue so to do, though he makethe no mencyon of heyres, but sayeth that he bequeteth to suche a person suche landes, to haue and to holde to hym and to his assignes for euermore: here a state of inherytaunce doth passe, for in testaments þe wyll and intente of the testatoure is to be pondred: a nat þe formal & prescripte wordes of the lawe.

*the will of the testat
is to be fulfilled*

¶ Also these termes in the law, franke marriage, and franke almyne, þe is to say, free marriage and free almyne do include in them wordes of inherytaunce.

*This word franke
include the estate
of inherytaunce*

¶ And therfore yf I gyue landes to a man to my doughter in franke marriage without further addition or mencyon of heyres, this is an estate of inherytaunce, as he shall hereafter declare more petyously. In lyke wyse it is of landes gyuen to an house ecclesiasticall in pure & franke almes. Whoeuer yf landes be gyuen to a man and to his bloude, or vnto hym & to hys seide, he hath in bothe cases a state of inherytaunce: for in the laste he hath a fee taylor, and in the other a fee symple. For this wyse seide, & bloude and

**Donū se
mū & lā
guint luo
quid sit.**

Of fee symple. Fo. xii.

and such lyke do implie wordes of inherytaunce.
¶ Also yf landes be gyuen to a mā and to hys
 heyres males, or females, he hath by this gyfte
 a fe symple, bycause it is nat expresse of what
 body the yssue shall come. C. 9. B. 6.

¶ But nowe it is to be sene who be sayde a
 mans heyres in þ lawe. Ye shall therfore know
 that my brother or syster by the halfe bloude,
 that is to wyte, by the fathers syde, and nat by
 the mothers, or contrarywys by the mothers,
 and nat by þ fathers, shall neuer be myne heyre
 nor none that come of them.

The halfe
 fe bloude.

¶ Neyther my bastarde can be myne heyre, nor
 myne owne naturall father nor mother nor
 grandfather, nor grandmother: can be myne
 heyre. For it is a pyncciple and grounde of þ law
 that inheritaunce maye lynally dyscende, But
 ascende it may nat. And therfore yf I haue lā-
 des in fee symple and dye without yssue of my
 bodye, my father can nat be myne heyre, but
 my fathers brother or syster shall, and then yf
 my vncle or aunt dye seased without yssue, my
 father shall haue the lādes as heyre to my vncle
 and nat as heyre to me, for that can nat be.
 But it may go from me to myne vncle or aunt
 well ynough, for that is nat called a lypall as-
 cension but a collaterall dyscent.

A basterd
 Maibe no lineall
 heyre. *elascens.*
 A grounde
 of the
 lawe. *collaterall
 assens.*

¶ And ye shall vnderstāde that lypall dyscent
 is when the dyscent is conueyed in the same
 lyne of the hole bloude, as graūdfather, father
 and sonne, and so downe. And collateral dyscent
 is out another, byaūche, frome aboue of the
 hole bloude, as the grandefathers brother or
 fathers brother and so dyscendynge.

Lineall &
 collateral
 dyscent.

¶ And ye shall note, that by the cammon lawe
 B. iiii. of this

Of fee symple .

Coparceners.

realme, the eldest Sonne shall haue the hole inheritance, & after him if he haue no yssue, & secōde Sonne, and so forth. And yf I haue no sonnes but daughters, than shall all the daughters together inherite, which be called coparceners, but yf I haue no yssue at al, neyther sones ne daughters, the hal my eldest brother inheritance succede me, but & yf I haue no brother then my sisters yf I haue anye, yf nat my vncle by my fathers syde, yf the lādes be myne owne purchase. And to be mozte, yf there be none in lyfe, of my fathers syde, it shall go to my mothers syde, and yf there cā be founde no heyre neyther by fathers syde, nor yet my mothers, then shall it reuerte & escheie, as they call it, to the lord of whome it was holdē, for euery lande must nedes be holdē of some lord, as shall be hereafter shewed. But yf lādes descēde vnto me by my mothers syde, than yf I sayle of yssue, the landes shall descēde onely to my heyre of my mothers syde, & neuer to myne heyre of my fathers syde: as on & contrary syde, yf I haue landes of any hereditamentes by discēt from my father or his blode, they shall neuer descēde to my heyres by my mothers syde.

Dyners syde.

And thus ye see a greates difference in this behalfe, betwene purchase landes, and landes whiche dyscēde from my auncestoure.

A groude of & lawe

¶ Yf there be thre sones, & the myddle sonne purchase landes and dye without yssue, the eldest shall haue the landes & nat the yongest.

¶ Also it is a p̄sciple in our lawe, that none can be myne heyre of landes that I holde in fee symple, onles he be myne heyre by & hole blode that is to saye, both my father & mother, for yf
a man

Of fee symple. Fo.xiii.

a man hath yssue two or thre sonnes by sondry wyues, and the eldest purchaseth landes in fee and dyeth without yssue, his halfe brethren I meane those that be nat his brethren both by f fathers syde, and mothers syde, shall nat haue the lande, but it shall go to his vncle.

¶ Likewise yf a man hath by hys first wyfe a sonne & a daughter, and by hys seconde wyfe another sonne, and the sonne by the first wyfe purchaseth lādes in fee symple and dyeth without yssue: the syster german, that is to say, both by fathers syde & mothers shall haue the lādes by dyscent as heyre to her brother, and nat the yonger brother, for almuthe as f yonger, brother can nat i this case be heyre to his elder brother because he is no brother germaine vnto hym. Otherwyle it is of lādes or other hereditamēttes entayled as shall be hereafter specified.

¶ Also yf a man be seyled of landes in fee symple and hath issue, a sonne and a daughter by one wyfe, and after the death of hys first wyfe a sonne by another wyfe, and dyeth, and the eldest sonne entreth into the landes, and after he dyeth without lawfull yssue of his body, the daughter shall haue the landes and nat the yongest sonne, & yet the yongest sonne is heyre to his father, but he is nat so vnto his brother. But yf in this case the eldest sonne had nat entered, after the death of his father but had dyed before any entre made by hym, then shall nat the syster germaine stee, but f yonger brother is heyre to hys father, because the eldest brother was neuer in actuall possession, whiche is requisite to f person f claymeth to be heyre collaterally.

¶ But to the lyniall heyres, it suffereth that f

Of fee symple.

auntestoure shulde haue bene heyre yf he had ly-
 ued, I meane as thus. A man is seased of lādes
 and hath yssue a sonne and a doughter by one
 wyfe, and afterwarde a sonne by another, he
 dyeth, and after his deathe the eldest sonne en-
 tretteth nat but dyeth without yssue before he can
 make actuall entre, here in this case hys syster
 shall nat haue þ landes as heyre to her brother
 bycause her brother was nat actuall possessed
 but þ yonger brother shall haue the as heyre to
 hys father. Yer yf the eldest sonne in þ case had
 lefte be hynde him issue of his bodye, whether it
 had bene sone, or doughter, this yssue nat with-
 dyng þ the father of the issue was neuer posses-
 sed eyther actuallie, or in þ law, shall haue lādes
 & shall cōuey his discret trō his father, the cause
 hereof is this, þ þ sone or doughter is lineal heyre
 where as þ brother, syster, vncle ante. &c. be hey-
 res collaterall, & so ye shall obserue a diuersite.
 ¶ I call an actuall possession, when a mā en-
 tretteth in dede into landes which be to hym dys-
 cended, but a possession, in lawe, is called whē
 landes be discended to a persō, and he hath nat
 yet reallye, and actuallie entred into them. For
 notwithstandinge that he is in actuall possession
 yet he is possessed in the lawe, that is to say, in
 the eye and consyderacion of the lawe he is de-
 med to be possessed, forasmuche as he is tenant
 to every mans accion that wyl sue for the sayde
 landes, for els assuredly there shuld insue an in-
 tollerable inconueniēce, as we shall moxe cop-
 pously open in another place.

Dyner.
 syte.

*Possession actu-
 all. et in law.*

Heredy-
 tas qd sit

¶ Ye shall further moxe vnderstande that this
 word inheritaunce is nat only to be accomodate
 and applyed to that whiche commeth by discret
 of lūc.

or successiō frō a mā's āncēstours or p̄ecessours
but also to euery purchase ī fee siple, or fee tayle

And note that a man can haue no larger, or
greater estate then fee siple.

Of fee tayle

Ye shal vnderstāde, that befoze a certayne
Statute called the Statute of Westm.
seconde, there was no state tayle but all
was fee siple, eyther purelye that is to saye,
without condycion or at the lest waye condy-
onally as appereth by the p̄tence of the sayde
statute, but nowe sēthens the promulgatyn of
the statute, dyuers foymes of statute tayle haue
tylen.

West. 2.
Capl. 1.

Diuisiō

Fee tayle is whē it is p̄scribed and lymit-
ted in the gyft, what sort of heyres & by whom
engendyed shal inherite.

As for example, I gyue landes to a man
and to hys heyres and go no further, this is fee
siple: but yf I make a lymytacion, and adde
of his body begotten, nowe it is fee tayle, that
is to say, a fee or inheritaunce lymytted, p̄scrib-
ed, determinate, or assigned.

So that yf I gyue landes to a man and to
his heyres, he hath, fee siple, but yf I gyue
landes to hym & to his heyres of his body law-
fullie begotten, he hath but a fee tayle, foras-
muche as I appoynte, lymitte, p̄scribe, and ex-
presse what heyres they shalbe and for lacke of
such heyres, the gyft shalbe exp̄yed and woiue
out, and the landes shalbe reuerte agayne to the
gyuer or his heyres.

But ye must obserue and note that there
be two kyndes of fee tayle. There is a general
tayle

Of fee tayle.

**General
tayle**

tayle and there is Specyall tayle.

¶ Fee tayle generall is as where landes be gyuen to a man and to hys heyes of his body be gotten, without any mencponynge and expresseynge by what woman they are to be gotten And therfore yf a man be tenaunt in the general tayle of landes, & taketh a wyfe and hath yssue by her, and she dyeth and afterwarde he taketh another wyfe, of whō he hath also other issue here eyther of these issues is inheritable to thys lande entayled. But yf I expresse in the gyfte by what womā the heyes shalbe procreate and

**Especcial
tayle.**

ingendryed, then is it an especcial tayle, as for example to make the thyng playne, yf landes be gyuen to a man and to the heyes of hys bodys lawefullye begotten by Margarete hys wyfe, this is an especcial tayle, for the issue of him be gotten by another woman, shall neuer inherite by force and vertue of þe tayle. Lykwylse it is, yf landes be gyuen to a woman & to the heyes of her bodys lawfully begotten (and shewe nat by what man) this is a generall tayle, but yf I go forth and saye by suche man her husbāde, then it is an especcial tayle.

¶ Also yf I gyue lādes to a man and to hys wyfe, & to the heyes of theyr two bodys lawfully begotten : this is an especcial tayle, as well in the husbāde as in the wyfe.

**Frank
marriage.**

¶ Semblable it is, yf a man gyuerh landes to an other mā with his daughter, or kynswoman in franke maryage, thys worde (franke maryage) emplyeth a state tayle especcially, and in this case as well the man as the woman hath estate in the speccial tayle.

¶ But yf I gyue landes to a man & to such a woman,

a woman, and to his heyres that he shall beget of her, here the woman hath the estate but for terme of her lyfe, and the husbände an estate in $\frac{1}{2}$ especyall tayle. And lyke wyse it is in the womans behalfe, as yf I gyue landes to a mā and to his wyfe, and to her heyres of the bodye of her sayd husbāde engendred, he hath an estate but for terme of lyfe, & she an estate in the especyall tayle. But in bothe cases, yf I had sayde to $\frac{1}{2}$ heyres & nat hys or her heyres, then shoulde eyther of them haue had an estate in the especyall tayle, because this wyorde heyres is as well referred to the one as to the other.

¶ Ye shall also vnderstande, that yf landes be gyuen to a man, and to the heyres males of his bodye, this is a state tayle, and in this case the heyre female shall neuer inherite

Discentes
by heyres
males.

¶ Also yf a man hath yssue and dyeth, and lādes be gyuen to hys & to his heyres of his bodye begotten, this is a good estate tayle, althoughe the father, were deade at the tyme of the gyfte

¶ Finally it is to be noted, $\frac{1}{2}$ of landes which a man hath in fee symple the possession of the brother shall cause the syster germaine that is to saye, the syster both by the fathers syde and mothers, to inheryte, & in this case the brother by the halfe blode shall nat inherite, as here tofore was sayde, but of lādes which be intayled other wyse it is. Therefore if a man be seased of landes in the generall tayle, and hath yssue by his first wyfe a sonne and a daughter, and also a sonne afterwarde by another wyfe, & dyeth, and the eldest sonne entreith into the landes and after dyeth, the syster germaine to the eldest sonne shall nat haue $\frac{1}{2}$ lande but $\frac{1}{2}$ yonger brother

Posseio fratris
facit fratri
heredem.
hic videtur in
fee symple ut in
30 tale.

Tenaunt after possibilyte.

brother of the halfe blode bycause, whosover
 Shall inheryte landes or any other hereditamen-
 tes in taylor, must clayme them as nexte and im-
 mediately heyre, nat to hym þe dyeth laste sealed
 of þe landes but to hym whom the landes were
 fyrst gyven vnto, whiche in the case before re-
 membered, is the sonne and nat the daughter,
 ¶ Thus ye shall marke a greates dyuersitie by
 twene the forme of succession in the landes of
 fee simple, and the forme in fee taylor.

*Differ-
 ence.*

¶ Tenaunt after possibilyte of yssue extincte.



When landes tenementes or o-
 ther hereditamentes be gyven
 to a man and to his wyfe, and
 to the heyres of theyr two bo-
 dyes lawefullye begotten yf in
 this case eyther of the chaunce
 to dye before they haue issue be-
 twene them, he or she that outlyueth, is still
 tenaunt in taylor, but without all possibilyte of
 any yssue þe can be heyre to these landes or here-
 ditamentes thus intayled, and for this cause he
 or she thus ouerlyuynge is called tenaunt after
 possibilyte of yssue extincte, for i such a tenaunt
 is all possibilyte of yssue that may be inherytable
 to these landes by force of the gyfte in taylor
 utterly extincte & quenched and by his or her
 death the state taylor shall expyre, cease, and be
 abolished forever, and shall reuerte and turne
 agayne to þe gyven or donour fro whence it came.
 ¶ Yet forasmuche as this tenaunt after pos-
 sibilyte of yssue, had ones an inheritaunce in hi
 he shall nat be punyshed by an action of waste.
 thoughte

*Dispos-
 sytable
 of waste,*

Of yssue extincte. Fo. xvi.

though he makethe neuer so muche wast in the landes and tenementes where as yet in effecte he is but a tenaunt for terme of lyfe.

Ten^r after possⁿ punished for waste.

But yf this tenaunt bothe alienate, in fee suche landes he in the reuercion maye entre for the forfeiture.

Forfeiture.

And this of estates at this presēt tyme shall suffice. But to the intent that ye may the more easlye cōprehende all the membris of the deuysion of possessions and estates which men may haue in landes tenementes and other hereditamentes, it shall nat be euyl done to set forth as it were in a table betoys your eyn the dyuision thereof whiche is this.

	1 Fee Symple.	
State of inherytenaunce.	1 Generall.	
	2 Fee tayle.	2 Speciall.
After common lawe.		3 After poss ⁿ
1 Franke tenet.	1 Curtesye of Englands	
	2 Dowry.	
	3 Terme of lyfe.	
	4 Terme of others lyfe.	
2 After custome.	Which is deuoyded in like maner as franke tenement by the common lawe.	
1 Reall.	1 Terme of yeres.	
2 Chatel.	2 Warde of landes.	
	3 At wyll.	
3 Personall.	All goodes manerables.	

Of parceners or coheyes.

Hetherunto I haue made a cōpendious and moze declaracion of estates of all sortes. But where I sayde, that amonge sisters there is no prerogatyue or premyence cōcernynge the inherityng of theyr auncetours landes but that they shalbe all togyther inherytours and make as it were but one heyre it is expedient to make a further declaracion & proceesse in this behalfe, and to shewe howe and in what maner this particion shalbe made.

**Distinction
of parceners
at the cō-
mon law
of parceners
by custōe.**

I But ye shall vnderstande that there be, besyde parceners at the common lawe, whiche be only sisters, also parceners by custome, whiche is amonges brothers contrarie to the course of the cōmon lawe, and this custome is in summe places of Kent, & in other places where landes and tenementes be of the tenure of Gavelkynde.

¶ Ye shall therfore knowe that when a man is seased of lande in fee simple or fee tayle, and hath no issue but daughters, and dye, and the daughters do entree into the landes thus descended vnto them, nowe they be called parceners, or coheyses, and by a wyse called: *De particiōe facienda* brought by one of them agaynst the others, they shalbe constrained by þe lawe to suffer an egall particion to be made of the landes betwene them.

**Wyse þe
particiōe
facienda.**

**Particiō
in wyse
maner.**

¶ Nowe particiō maye be made in sundrye wayes. Owe way is when they them selues do make particiō betwene them of the hōle heritagage and do agree vnto the same, and do entree euey one into her parte so allotted vnto her.

1.

¶ Another waye is when by all theyr agreement and consent one cōmon frende to they make the particiō. In whiche case þe eldest sister shal haue

2.

Of percerers.

Fo. xvii.

have the first election, and after her the second sister, and so forth. But if they agree that the eldest sister shall make the partition, and she maketh it then the eldest shall not choose first, but shall suffer all her sisters to choose before her, as it is thought.

There is also another forme of partition whiche is called to deuyde the landes into so many partes as there be coherers or percerers and to wyre every parte so occupied in a severall scroulle of paper, & so put the sayd scroulles into a bonet, or to inclose them severally in balles of waxe, and then the eldest sister to choose whiche balles she wyl, or to put her hande into the bonet, and to take a scroulle, and to holde her to her chaunce and allotment, and so consequently every sister after other.

And ye shall note, that partition by agrement may as well be made by nude and bare wordes without wytyng as by wytyng.

And if any of the parcerers wyl nat suffer any partition to be made, then may the other that wolde have partition purchase a wytt called De partitione facienda, agaynst the that refuse partition to compell the same to suffer partition to be made accordyngly, and then by the iudgement of the court, the wytt by the serement & othe of twelve men shall make partition betwene them and shall assigne to each sister her porcion, as he shall thinke good, without gpyng any election or chose to the eldest.

And if two Manours or meeres happen to disceide to two sisters, & the maners be nat of egall value, then may she, to whom the lesse maner or meere is allotted, have assigned unto her

L. i.

a rent

*Partitione p
eiusdem*

*Partitione p
lots*

Note.

*A wytt
De pccis
one facti
enda.*

*By the Sheriff
and others up to the*

Of perceners,

**Distrees
of comon
ryght.**

a rent proportionablye out of the other maner
for the whiche rent she and her heires may dy-
strayne of comon ryght, though they haue no
wrytynge therof.

Hochpot

¶ Finally, ye shall vnderstande, that yf a man
be seased of lādes in fee simple, and hath yssue
two daughters, and gyue the with one of hys
daughters to another man that shall marry her,
the thyrde or fourth part of his lande in franke
marriage and byeth, yf in this case þ daughter
that is in this wyse bestowed & auanced, will
haue her porcyon of her fathers heritage, she
must put her lande gyuen vnto her in franke ma-
riage in Hochpot newe agayne. I meane she
must be contented to suffre her sayd landes to be
commixed & mengled with the other landes of
whiche her father dyed seased in fee simple, so þ
an equall diuision may be made of the hole, or
elles she shall haue no parte of those landes of
whiche her father dyed seased. But yf her fa-
ther had made vnto her but a common gyfte in
taylor, or a feffement in fee, she shulde nat nede to
put her landes in Hochpot, but may very wel
kepe & retayne them still, & also haue as good
part of the rest of the lādes of which her father
dyed seased, as her other syster or sisters haue.

**Franke
marriage**

*aduanement of
a mans daughter*

For a gyfte in franke marriage, is accompted the
most free and most lyberall gyfte that can be, &
that gyfte whiche the lawe iudgeth to be onely
for the auancemente and bestowynge of the
daughter, where as feffementes in fee simple &
also comon gyftes in taylor be accustomed for
other causes, and for the auantage rather of
the gyuour, or feffour then of the taker.

¶ Also yf parceners make partition of landes
beyng

Of iointenauntes. Fo. xviii.

beynge within age that partition is voyde.
And yf parceners in fee symple make pteciō
 and the parte of the one is better then the other
 beyng of full age of .xxi. yerres, then the par-
 tition is good and can nat be defeted, but yf it
 be of landes in fee taylor, the one parte beyng
 better then the other, that partition may be de-
 feted by theȝ heȝres.

Of Joyntenauntes.



Ytherunto verely haue we spo-
 ken of Coheȝres called Partes-
 ners at the comon lawe, whiche
 as is heretofore declared do cōe
 to landes and other hereditamēts
 tes ioyntly by the course, operas-
 tion and acte of the lawe. Nowe shall we speke
 somewhat of them whiche eȝther ioyntlye oȝ
 fenerally come to landes, tenementes, oȝ other
 hereditamentes by theȝ owne purchase, acte,
 procurement and woȝkyng. And of these they
 that come to them by ioynt tytles, waye, oȝ co-
 lour be called ioyntenauntes, but they that
 come by feuerall tytles, wayes, oȝ colours to lā-
 des oȝ tenementes, be named tenants i cōmon.
So then, yf a man beyng sealed of landes,
 oȝ tenemētes oȝ other hereditamētes shall there
 of infeffe two thre, foure, oȝ moȝe, to haue and
 to holde to them in fee symple, fee taylor, oȝ for
 terme of theyȝ lyues, oȝ for terme of anothers
 lyfe, these personnes so infeffed and sealed, be
 called Joyntenauntes. Also yf two oȝ moȝe do
 expell and disseyse another man of any landes
 oȝ tenementes to theȝ owne behoufe and vse
 these disseysours and wȝonge doers are nowe

Tenātes
in cōmon

Of ioyntenauntes .

Coadiutors

become ioyntenauntes, bycause by theyr owne acte they come ioyntlye to this lande. But yf they do dysseise another mā to the vse onely of one of the, in this case they be nat ioynttenauntes but he to whose vse the disseisen is made, is tenant alone of the same, and the other haue nothyng in the tenauncy, but be called aydours or coadiutors to the disseisen.

Disseisin

¶ And ye shall vnderstande, þ a disseisen is properly, where a man entrethe into any landes or tenementes there where his entre is nat lawefull, and putteth out hym whiche hath the free holde of the same.

*Surp-
uicary
tenas-
ment
is
not
lawefull*

¶ And ye shall furthermore knowe, that the nature of ioyntenaunce is, that he which surpurcheth and querlyueth the other, shall haue to hym selfe alone the hole & entyre tenaunce as cordynge to that estate whiche he shulde haue had yf the ioynture had ben continued, as (for example) thre Ioyntenauntes be of landes in fee simple, and the one hath the yssue & dyeth, in this case the two whiche do ouerlyue theyr felowes, shall haue the hole landes betwene the, and the yssue of hym that is deydred getteth nothyng. And yf the secōde ioyntenant hath also yssue & dye, the thyrde whiche hath ouerlyued the bothe, shall now haue & enioye the hole to hym and to his heires for evermore.

*Dyuer-
sitye.*

¶ But otherwyle it is of coheyses whiche in our lawe be called parceners. For yf there be. iii. suche coheyses & parceners, and before any partition made, the one hath yssue & sonne or a daughter and dyeth, his porcyon shall disceide and fall to his chyldre, and shall nat runne a mā gegit the other ioynt heires or coparceners.

¶ Note

Of ioyntenautes. Fo.xix.

Howbeit if such parcener or coheyr had dyed without issue, then shulde his porcyon haue descended to his coheyr. But howe nat by force of curuynour or ouerluyng whiche in latyn is called ius accrescendi, but by very dyscent, for where any of the coheyr dy without yssue who can be heyr to hym or her so dyenge, but of other coheyr to hym or her so dyenge, but the other coheyr or the rest of the coheyr yf there be many. And lyke as this ryght of curuynour or ouerluyng holdeth place amonges ioyntenautes of landes and tenementes, so in lyke manner it holdeth place amonges thē which haue ioynt estate or possession w others of chatelles whether they be real or personall. As for example yf a lease of landes or tenementes, be made to many for terme of certayne yeres, of ouerluyner or ouerluyners shal haue the hole durynge of terme by force of of same lease. So of chatelles personall, yf an horse, ore grayne or other suche personall chattell be gyuen to many, he whiche ouerluyner shal haue the same alone. In scribble wyle it is of dettes and duties. For yf an obligation be made to many for one det, & so of other couenautes and contractes.

Also some ioyntenautes maye be whiche may haue ioynt estate and be ioyntenautes for terme of theyr lyues, and yet haue seuerall inheritaunces. As where landes be gyuen to two men & to the heyres of theyr two bodyes engendred, in this case, these two personnes haue ioynt estate for terme of theyr two lyues. And yet they haue seuerall inheritaunces. For yf the one haue issue and dye, of other that curuyneth shal haue al by force of the curuynour for terme

Joyntenautes of real or personall goodes.

Joyntenautes of seuerall inheritaunces.

Joint ten. w issue
seuerall for
heir

Of ioyntenauntes.

Tenantes in cōmon.

of his lyfe. And yf he that suryuereth hath also yssue & dye, thā the yssue of the one shal haue þ halfe of the landes, & the yssue of the other shal haue thother halfe, & they shal holde the landes betwene them in cōmune & shal nat be ioyntenauntes, but tenants in cōmon, and the cause and reason why suche donees i such cases haue ioynt estate for terme of theyr lyues is, for that at the begynnig the lādes were gūē to thē two whiche wordes without moze sayenge, make a ioynt estate to thē for tme of theyr lyues. For yf a man wyl let lāde to another by dede or without dede, nat makynge mencyon what estate he hath & of this maketh lyuery of seysin in this case the lesse shal haue a state for terme of hys lyfe. And yf he haue no lyuerpe of seysine he is but tenant at wyl. And so forasmuch as þ lādes were gūē vnto them, they haue a ioynt estate for tme of theyr lyues. But the cause why they haue seuerall inheritance, is this, for that they can nat by possybyltye haue an heyre betwene thē engēdied as a mā and a woman may haue wherfore the lawe wyl that theyr estate & theyr inherytaunce shalbe suche as reason wyl after the forme & effecte of the wordes of the gyfte, and that is to the heyses that the one engēdied of his body by any of his wyues, & to þ heyses that the other engēdied of his body by any of his wyues. So is behoueth by necessity of reason, that they haue seuerall inheritances. And in such case yf þ yssue of one of thē aft the deith of thē both doth dye, so that he hath no issue a lyue of his body engēdied: then the donour whiche gaue the landes or his heyre may entre in the halfe as in his reuercion though he þ other hath

*The donour for doct
of issue of one of y
shall entrie in
to by on selfe*

Of Ioyntenautes. Fo.xx.

hath yssue alpye. And the cause is þ forasmuch as the inheritaunces be severall, therfore þ reservation in the lawe is severed, & the suruivour of the yssue of the other shall holde no place to haue the hole. And as it is sayde of males in the same maner it is where lādes be gyuen to two fe males & to þ heyres of they.ii. bodyes begottē

¶ Also yf landes be gyuen to two and to the heyres of one of thē, this is a good ioyntenaunce, and the one hath a free holde, and the other hath a fee symple, & yf he which hath fee simple dye, he that hath the freholde shall haue the hole by the suruivour for terme of his lyfe.

¶ And yf these two ioyntenautes ioyne in a gyfte in taylor to a stranger, reseruyng a rent to hym that hath a state but for his lyfe, this reservation is voyde to make a tenure. Lykewyse it is where tenementes be gyuen to two and to the heyres of the body of one of them engedyed the one hath freholde & the other fee taylor.

¶ Note, yf two ioyntenantes be leased of a state of fee symple and the one graunteth a rent charge by his dede to another out of þ which to hym belongeth, in this case durynge the lyfe of the grauntoure the rent charge is good and effectuell, but after his decease the rent charge is voyde, as to charge the landes, for he þ hath the lande by the suruivour shall holde all the landes discharged, the cause is for that he that suruiveth, claymeth to haue the lande by the suruivour and nat by descent of his felowe.

¶ But otherwyle it is of preners or coheyyes for yf ther be.ii. preners in fee simple & before any pdition made, þ one chargeth that, þ to him belongeth by his dede of a rent charge & dyeth without

Survivour
holdeth
no place.

Rent
charge
graunted
by a ioyntenant.

Dyeth
without

Of ioyntenauntes.

out / ſue, here that which to hym belongeth diſ-
cenderh to the other parcener and in this caſe
the other pcener ſhall holde the lāde charged by
cauſe he cometh to ſ halte by diſcent as herre.

**Deuſe
by teſta-
ment.**

¶ Alſo yf there be two ioyntenauntes in fee ſi-
ple, withyn one bozough where the landes & te-
nemētes withyn the ſame bozough be deuſible
by teſamēt yf the one of ſ ſayde ioyntenaūtes
deuſe that whiche to hym belongeth, by teſta-
ment, and dyc, this deuſe & legacion is voyde
And the cauſe is for that, ſ no deuſe may take
effect tyl after the death of the teſtatour which
bequeathed & deuſed the ſame, and by his deſh
all the lande incontynent cometh by the lawe
to his ſelowe that ſuruyuerh by the ſuruyuour
which neyther claimeth nor hath any thynge in
the lande by the deuſe but in his owne ryght,
by the ſuruyuour after the courſe of the lawe &
for this cauſe ſuche deuſe is voyde.

**¶ groſſe
in ſ lawe**

¶ But otherwyſe it is of parcnens ſealed of
tenemētes deuſible in ſuche caſe of deuſe for
the cauſe aboue remēbred. Alſo it is commonly
ſayde that euery ioyntenaunt is ſealed of the
lande that he holde the ioyntlye par my et par
rout, that is, throughe out & by all. And this is
as much to ſay, that he is ſealed by euery par-
cell and by all, whiche ſaynge is true for in es-
uery parcell and parte and throughe out all the
landes & tenementes he is ioyntly ſealed with
his ſelowe. And therfore yf the one ioyntenaūte
make a leſſemēt to his cōpanyon, this is voyde
by cauſe he can make no lpyury of ſeaſon to hi.
Alſo yf two ioyntenaūtes be ſealed of certayne
lādes in fee ſiple & thone letteth that, ſ to hym
belongeth to a ſtraūger for terme of .xl. yeris &
dyeth

**Drures
ſpce.**

Of ioyntenautes. Fo. xxi.

Dyethe within the term, in thys case after hys
dearth the lessee may entre & occupy the halfe to
hym letten duringe the sayde terme though the
lessee neuer had possession of it in the lyfe of þ
lessour by force of the lees. And the difference
berwene the case of the graūt of a rentie charge
and this case is this that in the graūt of a rent
charge by a ioyntenaunt the landes or tenemē-
tes abyde alwaye as they were afore without
that, þ any hath ryght to haue parcell of the te-
nementes but them selfe and the tenementes as
byde in such pyte as they were before þ charge
But where a lees is made by a ioyntenaunt to
another for terme of yeres. incōinent by force
of the lease the lessee hath ryght in þ same lāde
that is to say, of all that, that to his lessour be-
longeth by force of the same lease durpuge his
terme. And yf the lessour in this case dye the o-
ther ioyntenaunt shal haue the rent or terme dur-
yng the sayde terme bycause the reuerfion is
come to hym by suruivour. fynally yf a ioynte-
estate be made of lande to the husbāde & wyfe
and to the thyrde person, in this case the hus-
bāde & the wyfe haue nat in the lawe in theyr
ryght but the halfe, and the thyrde person shal
haue as much as the husbāde & the wyfe haue
that is to saye, the other halfe.

¶ And the cause is for that the husbāde and
wyfe be but as one person in the eye of the law
and it is here in lyke case as yf estate be made
to two ioyntenautes where the one hath by
force of ioynture þ one halfe, & the other the o-
ther halfe. In scēlable wyfe it is where estate
is made to the husbāde and wyfe and to othre
two men, in this case the husbāde & the wyfe
have

Difference
betwene
a grāt of
a rē and
a lease.

Nota
obiter.
in a grant of a rent
charge the person
ad id ad hoc
did before
but afterwards
in a lease.

but for before dying
the husband and wife
and the third person
by the law.

husband and wife
own 1/2 in law.

Tenauntes in cōmon.

haue nat but the thyrde part and the other two men the other two partes.

¶ Also yf two oꝝ thre togyther disseiseth another of landes & tenemētes to theyꝝ owne vles, then suche disseisours be called ioyntenauntes. Bpore Halbe sayde of this matter touchynge ioyntenauntes in the nexte chapitre.

Tenauntes in Common.

Tenauntes in Common (as I sayde before) be they that haue landes oꝝ tenemētes in fee symple, fee taylor, oꝝ for tyme of lyfe, which haue suche landes and tenementes by seuerall tytles, and nat by ioynt tytles and none of them knowethe that whiche is seuerall to hym. And in this case they ought by the lawe before partition made betwene thē to occupye suche landes and tenementes in cōmon and for vndeuyded to take the profites in cōmon. And bycause they come to suche landes & tenementes by seuerall tytles and nat by one selfe ioynt tytles and theyꝝ occupacion and possession in the same is amonge them in common, they be called tenanntes in common, oꝝ tenauntes p indiuiso. As for example, yf a man infeoffe ii ioyntenauntes in fee symple, and the one of them aspyeneth that, p to hym belongeth to another in fee, nowe the other ioyntenant and he to whōe the alienacion was made be tenantes in cōmon for that they be seased of suche tenementes by seuerall tytles, for the one cometh to the one halfe by the feoffement of the ioyntenaunt and the other hath the other halfe by force of the fyrst feoffement made to hym and to his fyrrst scilowe and so they be in by seuerall tytles & by
seuerall

*Tent in cōmon
is the gyle by
rule of lawe.*

Tenant in cōmon.

**Joynte-
tenantes.**

So it is of tenantes for terme of lyfe. Therfoze yf two ioyntenauntes be in fee and the one letteth to a man that, þ vnto hym belongeth for terme of lyfe and the other ioyntenaunt letteth that which to him belōgeth to another for tme of lyfe also, these two leſſes be tenantes in cōmon for terme of theyr lyues.

¶ Also yf a man let lādes to two mē for terme of theyr lyues, of whō the one graūteth all hys estate to another: thē that other tenaunte for terme of lyfe, & he to whom the graunt is made shall be tenantes in comon durynge the tyme that bothe leſſes be alpye.

¶ Note yf there be two ioyntenauntes in fee, and the one letteth that, þ vnto hym belongeth to another for terme of life: þ tenaūt for terme of lyfe durynge his lyfe and the other tenaunte that dyd nat let be tenantes in comon. And vpon this case a question maye ryse as this. Let the case be that the lessour hath issue & dyeth, luyng the other ioyntenaūt his felowe, & luyng the tenaūt for terme of lyfe, the question is whether the reuerſyon of the halfe that the lessour hath shall discende to the issue of the lessour oz whether the other ioyntenaūt shall haue it by the suruyuoure oz no. And somme haue sayde, that the other ioyntenaūt shall haue the reuerſyon by the suruyuoure for as muche as, when the ioyntenauntes were ioyntely seyled in fee symple, though the one of them made estate of that, that vnto hym belongeth for terme of lyfe, and though he hath seuered the franke tenement of that, that to hym belongeth by the leas, yet he hath nat seuered the fee symple. But the fee symple abydeyth to them ioyntly as it was

Questiō.

*though he seuered
the franke. yet
he hath not seuered
his fee symple*

Tenaunres in cōmou. Fo.xxiii.

it was befoze. And so it semeth vnto the, & the other ioyntenaunt whiche suryueeth shal haue the reuerſion by the ſuruiuour. But other haue thought the contrary, and this is theyr reason. When one of the ioyntenauntes letteth that which vnto hym belōgerh to another for terme of lyfe by ſuche leaſe the franke tenement is ſeuered from the ioynture. So that the reuerſion that is dependaunt vnto the ſame franke tenement is ſeuered from & ioynture. Furthermore yf the leſſour had reſetued to hym a perely rent vpon the lees, the leſſour onely ſhulde haue the rent which is a proſe & the reuerſion is only in hym and that the other hath nothyng therein. Also yf the tenaunt for terme of lyfe were implebed and make default after default, & leſſour ſhalbe onely here vpon receyued to deſeide his ryght and nat his ſelow, which proueth & reuerſion of the halfe to be onely in the leſſour and ſo conſequently, yf the leſſour dye, luyng the leſſee for terme of lyfe the reuerſion ſhall deſcende to the heyres of the leſſoure and ſhall nat come to the other ioyntenaunt by the ſuruiuour after theſe mens opinions, yet it is a doubt. But in this caſe, yf the ioyntenaunt that hath the franke tenement, haue iſſue & dye, luyng the leſſour and the leſſee, than it ſemeth that the iſſue ſhall haue the halfe in his demefne, as of fee by diſcent for as muche as the franke tenement may nat by nature of the ioynture be annexed to a reuerſion, and it is certayne that he that letteth, was ſeaſed of the halfe in his demefne as of fee, and that none ſhall haue any ioynture in his franke tenement, ſo that this ſhall deſcende to his iſſue.

*Reuſ. 5 July in y
Loffe for 2*

Reſcripto

Quert.

*It may not be
that of reuerſion be
annexed to a
reuerſion.*

Tenautes in cōmon,

Release.

If the tēpncēnautes be, & the one releaseth by his dede to one of his felowes all the ryght he hath in the lande, thā hath he to whōe the releas is made & thyrde part of the lādes by force of the release, and he & his felowe shall holde & orher ii. parties ioyntly. And as to the thyrde part & he hath by force of the release he holdeth it with hym selfe and his felowe in cōmon.

And it is to wyt, that sometyme a dede of releas shall take effecte put the state of hym that made the releas in hym, to whōe the releas is made as in case aforesayde.

Also if a tōynt estate be made to the husband and wyfe & to a thyrde person, and the thyrde person releaseth his ryght that he hath to the husbāde: than hath the husbāde the halfe, whiche the thyrde person had, and the wyfe of this hath nothyng. Semblably yf & thyrde person had released to the wyfe nat nampyng the husbāde in the releas, the shulde & wyfe have the halfe that the thyrde person had, & the husbāde nothyng of this but in ryght of his wyfe bycause such releas shall enure to put the estate to hym to whōe it was made of all that, & belongeth to hym that made the releas. Agayne in some case a releas shall enure and serue to put all the ryght that a man hath that made the releas in hym to whome it is made. As a mā bespyng leased of certayne landes is dysseised by two disseisors yf the persone disseised by his dede release all his ryght to one of the disseisors, thā he to whome the releas is made shall have and holde all to hym alone & put out his felowe of the occupation of it. And the cause is for that the two disseisors were leased by wynges

Dysseisours.

*Relouys in whole
so in of the
disseisors*

Tenautes in cōmon. Fo.xxiiii.

wzonge by them done agaynst the lawe, & whā one of the getteth the releas of him þ had right to entre, this ryght resteth in hym to whom the releas is made, & in sucche plyte as yf he þ had the ryght had entred and enfeofed hym of the same. And the cause is, for that he that befoze had an estate by wzonge hath nowe by the releas a ryghtfull state.

And in some case a releas shall enure and take effecte by way of extingwishment, & such a releas shall helpe the ioyntenaunt to whome the releas was nat made as wel as him to whō it is made, as yf a man be disseised, and the disseisour maketh a feoffement to two men in fee yf the pson disseised releas to one of the feoffes in fee by his dede thā such releas shall enure to bothe the feoffes bycause the feoffes haue estate by the lawe, that is to say by the feoffemente and nat by wzonge done to any other.

And in lyke maner yf the disseysour make a lease to a man for terme of lyfe, the remaynder ouer to another in fee, yf the disseisie wyll releas to the tenant for terme of lyfe al his right this releas serueth as well to him in þ remaynder, as the tenaunt for terme of lyfe. And the cause is for that the tenant for terme of lyfe cometh to his estate by the course of the lawe, & for this cause the releas shall enure and take effecte by waye of extingwishment of the ryght of hym that hath released. And by this releas the tenaunt for terme of lyfe hath no greater estate than he had befoze the releas made vnto hym and yet the ryght of him that released is al utterly extyncte and gone. Wherfoze for asmuch as such releas can nat enlarge the state of þ remaynte

Releas
by waye
of extyn-
guishmēt.

A releas
shall enu-
re to him
in the re-
maynder

Tenauntes in cōmon,

naunt for terme of lyfe, it is ration, that it shall
serue hym in the remaynder

¶ Also yf there be two parcellers, and the one
alyeneh his parte to another: & other parceller
and the aljene be tenauntes in common.

Tenaun
tes in cō
mon by
tytle of
prescrip

¶ Furthermore tenauntes in common may
be by tytle of prescripcon yf the one & his an-
cestours or they whose estate he hath in & half
hath holden in cōmon the same halfe with the
other tenaunt & hath the other halfe and with
his auncestours or them whose estate he hath as
vndercupped tyme out of mynde.

Actions
seuerall.

¶ Also ye shall marke, that in some case tenau-
tes in cōmon ought to haue of theyr possessyon
seuerall actions, & in some case they shall ioyne
in one action, for yf there be two tenauntes in
cōmon & they be dysseised, they ought to haue
agaynst the dysseisour two assyses and nat one
assyse for every of them ought to haue an as-
sise of his halfe, because they were leasid by
seuerall tytles, but otherwys it is of iointenaun-
tes, for if there be .xx. iointenauntes & they be dis-
seised, they shall haue in al theyr names but one
assyse, because they haue but one ioynte tytle.

*It is assyse.
Ten in cōmon ought
to haue seuerall
actions, assyses.
otherwys of ioynte*

Assyse.

¶ Also yf there be thre ioyntenauntes, of whō
the one releaseth to one of his felowes all the
ryght he hath and afterwarde thother two be
dysseised of the hole, in this case they shall haue
in both theyr names one assyse of the two par-
ces. And as to the thyrde partie he to whome
the release was made ought to haue therof an
assyse in his owne name, because as to & thyrde
parte he is tenaunt in common.

Dyners
tyte.

¶ Also as to sue actions & touche the realtye,
there is dyners tyte betwene parcellers that in
dyners

Tenautes in cōmon. Fo. xxv.

In dyuers discentes, and tenautes in common.
 For if a man leased of certayne landes in fee,
 hath yssue two daughters and dye, & they entre
 into the landes as coheires, and eche of them
 hath yssue a sonne & dye without geyson made
 betwene them, so that the one haile descendeth
 to the sōne of the one grener, & the other haile
 to the sōne of the other and they entre & occupy
 in comon, & be disseised, in this case they shall
 haue in their two names one assise, & not two
 assises. And þ cause is, though they come in by
 dyuers discentes, yet they be coheires & greners

¶ Also if two tenautes in common of cer-
 tayne landes in fee, gyue the same to another
 man in the taple, & let it to another for terme
 of lyfe, yf dyngge an annuyte of certayne rent of
 a pounde of pepper, or an hauke or an horse, and
 they be leased of these certaynes & afterwarde
 all the rent is behynde, and they distreyn for it
 and the tenaute maketh them rescous, in this
 case as to the rent & the pounde of pepper they
 shall haue two assises, and as to the hauke &
 the horse but one assise. And the cause whye
 they haue two assises as to the rent & pounde
 of pepper is, for that they were tenautes in cō-
 mon by severall tytles, & whā they made a gyfte
 in the taple or lease for terme of lyfe, sauyng &
 reserpyng to them the reuerpyon and pleyng
 to hym certayne rent: his reseruycon is trespas-
 sent to theyr reuerpyon.

¶ And bycause theyr reuerpyon is in cōmon &
 by severall tytles, such as theyr possesion was
 before the rent and other thynges whiche may
 be seuered and which were to them reserued by
 pon the gyfte or upon the lease (whiche be inc-

D. 1.

dent

keyes of Pauc
 shall have
 on Assise

Rescons.

Tenautes in cōmon.

**Playnt i
assise.**

dent by the lawe to the reuerſion) therfore ſuch
thynges ſo ſucced be of the nature of reuerſiō
of Deper which may be ſucced be to the inſō
mon by ſeueral l iſles. And of this they ſhall
haue two aſſyſes & euery of them in his aſſyſe
ſhall make his playnt of the halfe of the rent &
of the halfe of the pounce of Deper. But of ſ
haue and the hoſte whiche can nat be ſeuered
they ſhall haue but one aſſyſe, for it were an ab
ſurditie & thyng inconuenient to make a playnt
in aſſyſe of the halfe of an Hauke, or of ſ halfe
of an hoſte. In lyke maner it is of the other
rentes and ſeruyces that tēnautes in common
haue in groſſe by dyuers l iſles.

**Parſon:
all acciōs**

*Acciōs pſon. acc.
ioyntly among ſe
in common*

¶ And ye ſhall vnderſtande that concernyng
acciō. parſonals, tēnautes in cōmon ought ſo
haue them ioyntly in all theyr names, that is to
ſaye of treſpas or of offences that touche theyr
tēnementes in comon, as of breakyng of theyr
houſes, breakyng of theyr cloſes, and paſtures,
walyng and defoulyng of theyr graſſe, cut
tyng of theyr woodes, & of ſpſhyng in theyr
poundes and ſuche other, and they ſhall recover
ioyntly damages, bycauſe the acciō is in the
parſonalyte and nat in the realtyte

Damaſte

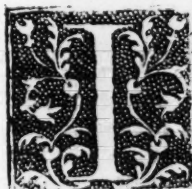
**Tēnaūt
in cōmon
ſhall haue
one acciō
of Dette**

¶ Allo yf tēnautes in common make a leaſe
of theyr tēnementes to another for terme of yea
rea y. ldyng vnto them yxely a certayne rent,
yf the rent be behynde, they ſhall haue one acciō
on of Det agaynſt the leſſe and nat dyuers acciōs,
bycauſe the acciō is in the parſonalyte
But in auoury for the ſayde rent, they ought to
ſeuere bycauſe it is in the realte as the aſſyſe is

Auourye.

Tēnautes in common of chaſele.

Tenautes in cōmon. Fo.xxvi.



It is to be knowen, þas there be tenautes in cōmon of lādes or tenementes: so there be tenautes in cōmon of possessyons & pperities of chatels als w:ll real as psonall. Of real as if a lees be made of certayn landes to two men for terme of .xx. yeres, and whan they be therof possessed the one graunterh that, þ vnto hym belongeth, durynge the terme to another, be to whom the graunte is made & the other shall holde & occuppe in cōmon.

¶ Also yf two ioynttenautes haue the warde of the bodye and of the landes of an heyr Min age, & thone of the graunterh to another that, þ vnto hym belongeth of the same warde, the he to whome the graunte is made, & the other that graunterh nat shall haue & holde it in cōmon,

¶ Of chatels parsonels, as yf .ii. haue a ioynt estate eyther by gyste or by byenge, of an hoise, or of an ore, or suche lyke, and the one of them graunterh that, þ to hym belongeth here shall the graunter and be that graunted nat, haue & possede suche chatel parsonal in cōmon. And in suche cases where dyuers psons haue chatels reals or parsonals in cōmon and by dyuers tytles yf one of the dyr, the other that surdyuerh shall nat haue his felowes parte by the surdyuour, but the executours of hym that dyeth shall holde and occuppe it with hym that surdyuerh in lyke fourme as they: testatour dyd or oughte in hys lyfe, forasmuche as they: tytles and ryghtes were seuerall.

¶ Also in þ case aforesayd, yf two haue estate in cōmon for terme of yeres, and the one dothe

D.ii.

occuppe

Forntes
naund of
awarde.

Of chatels.

**I wipt de
electione
time.**

**De electi
one custo
die,
Crespas**

occuppe all and put the other out of his possessi-
on and occupation, the Mal he that is put out
haue agaynste thother a wipt de Electione tyme
me for the halfe. In semblable maner where
two holde the warde of landes or tenementes
duryng the nonage of a chyldre, if one Mal put
out the other of his possession, he that is out
shall haue a wipt, de Electione custodie of the
halfe, bycause these thynges be chatels reals, &
may be appoynted and seuered. But no acti-
on of Crespas lyeth for the one agaynste the o-
ther (as for example Quare clausū suū fregit &
herbam suā conculcauit et cōsumpsit noz suche
lyke actions) forasmuche as eche of them maye
entre and occuppe in common. But if two be
possessed of chatels psonels in common by dys-
crete tytles as of an hoise, or an oxe, cowe, &
the one take it all to hym selfe out of the posses-
sion of the other, the other hath none other re-
medye, but to take it agayne from hym & hath
done hym the wronge, whē he may se his tyme.

*Item in tyme of cha-
tels & personall
tyme in common
it is follow
haboull.*

*Also wipt of wille
being realt wille*

In lyke maner of chatels reals whiche may
not be seuered, as in the case aforesayd, where
two be possessioners of a warde of the body of
a chyldre within age, if one shall take a chyldre
out of the possession of the other, the other hath
no remedy, by any actiō at the lawe, but to take
the chyldre out of the others possession, when
he seeth his tyme.

**Fourme
of plea-
dyng.**

Seisen

Finally ye shall vnderstande that when a
man in pleadyng & declaryng his cause wyl
shewe a dede of feoffment made vnto hym or
a gyfte in the taylor or a lease for terme of lyfe of
any landes or tenementes, shall be his termes
in this wyle, and saye, by force of suche feoff-
ment

Of pticiō by ioītenaūtes, Fo.xxvii.

mente, gyfte, or lease, was leased.

¶ But where a man wyl declare or pleade a lease or a graūte made vnto hym of a chatel real or personall, these he shall say by force of which he was possessed.

Possession

¶ Of perticion to be made by ioyntenauntes and tenaūtes in cōmon inacted

Anno rre H.viii.

All ioyntenauntes & tenaūtes in cōmon of any estate of inheritaunce in theyr own ryghts or in the ryght of theyr wyues of any landes or heredytamentes within this realme of Engalnd, Wales, or the marches of the same, shall and maye be compelled to make partition betwene them of the same whiche they so holde as ioyntenauntes or tenaūtes in cōmon by wynt de pticipacione facienda to be doūpced in the chauncerye in lyke maner as to parceners are compelled to do, and the same wynt to be pursued at the common lawe. And after suche pticion made euery of the sayd ioyntenauntes & tenaūtes in common, shall & may haue ayde of the other or of theyr heires, to chintent to deaigne the warrantie paramouite and to recouer for the rate as is vsed betwene coparceners after partition made by the ordre of the common lawe.

*A partition
between
common
by statute*

*Wynt de
Parti
stone
facienda.*

*Ayde
prayed.*

¶ Item in the.xxvii. yere of kyng Henry the viii. Cap xxxii. It is further inacted that all ioyntenaūtes & tenaūtes in cōmon which holde ioyntlye or in cōmon for terme of lyfe, yere or yeres or ioyntenauntes or tenaūtes in cōmon where one or some of the haue estate for terme of lyfe or yeres with other that haue estate of

D.iii.

in

Of condicions .

*Partition behou
th in common*

inheritance or free holde in any landes or othe
hereditamentes whalbe compellable by wyrtre
of Particion to be pursued out of the chauncery
vpon theyr cases to make seuerance & part
tion of all suche lādes & hereditamētes as they
holde ioynntly or in common for termz of lyfe or
lyues, pere or peres where one or some of them
holde ioynntly or in common for terme of lyfe or
peres with other that haue an estate of inheri
taunce or free holde. Prouyded that no suche
particion nor seuerance, be hurtful to any per
son other then suche as be parties vnto þ sayd
particion theyr executours or assignes.

*Quid sit bonu
fidei*

Of condicions.



As muche as every estate is
eþther pure, or conditionall, it
were nat amisse to make some
declaracion of the nature and
effycacye of condicions. Whers
fore ye shall vnderstande that
of condicions, some be actuall

Distinction

condicions, & be called expresse condicions or con
ditiōs in dede, & other some be conditiōs in law
whiche be called also in laryne Conditions tac
cite, true conditiōnes iplicitie, bycause they be se
cretely implied by the lawe and nat expresse.

**Conditi
ons in
dede.**

Conditiōs in dede be suche as be knyrd and
annered by expresse wordes to the feoffemente
lease or graunt, eþther in wyrtynge or without
as for example yf I infeoffe a man in certayne
landes reseruyng to me and to my heires so
much rent perely to be payde at suche a feast,
and for defaunce of payment, þ it whalbe lawfull
for me to reuere, this is a feoffement vpon cōdy
cyon

Of condicion. Fo. xxviii,

cion of payment. And here þ nat paymēt of the
rent shall dissolue and utterly defete the feoffe
ment, scēblably it is of gyftes in taylor leases. &c.

¶ But yf the condicion be, that for defaute of
payment of the rent, it shall be lawefull for the
feoffour to entre agayne into the landes and to
holde them tyll he be contēred and saryfpyed of
the rent, this cōdicion nat perfoymed doth nat
dissolue nor vndo the feffement, but onely gy
ueth to the feoffour an aucthorpytie to retayne
the lādes (as it were by way of distresse) tyll he
hath leuyed the arrearages of the rent. And ye
shall well marke and obserue, that condicions
be sometyme made to be pfoymed on the feof
fces behalfe, and sometyme on the feoffours be
halfe. On the feoffces behalfe, as when I en
feoffe you of landes or tenementes vpon cōdi
cion þ ye shall do such an act, as to pay vnto me
or to myne heyyes luche annuell rent.

¶ On the feoffours behalfe, as when I make
a feoffement vnto you vpon cōdicion that yf I
pay or cause to be payde vnto you before luche
a day luche a summe of money, then it shall be
lawfull for me to entre agayne and retayne my
landes in my former estate. In this case he þ is
the feoffee, is called tenaūt in moigage, whiche
is as much to say as dede gage, and it semethe
that þ cause why it is so called, is for as much
as it is doubtfull whether the feoffoure will
pay at the day lympyted & pscrybed luche summe
of money for the redemption of his landes or
no; for yf he do nat, his tytle or entresse in the
landes thus gaged and oppygnorate is utterly
extyncte & gone without all hope of rennyng.

¶ Ye shall also note, that yf the moigageoure

D. iii.

Dyete

condicion of feoff
on hands to hold
from till the
feoffor go to
the law

Dyetes.

condicion on the
feoffor or feoffee
be halfe.

moigage of mo
ture bawdun
Tenaūt
moigage

Of condicions,

*heire may re-
deeme the land
his father dying
before day of
payment.*

breth before the day of paymēt, his heire maye redeme the lande very wel, euen as well as his auncestour & morgaged the lande myght haue done, al thoughe there be no mencyon made of heires in the wytyng.

¶ Also yf when the money is lawefully by the morgagour or his heire tendred and profered, and & lesser refuseth to receyue & same & feso- four or his heire may entre, & thā hath & fcoffe no remeoyr for his money at the comon lawe.

**Condici-
ons voide**

*Feoffment
that the feoffor
shall not
be void.*

¶ Y: Mall vnderstande also, that some condy- cions be vtrerly voyde in & law, & of none effi- carpe, vertue, or strength, as yf a feoffment be made of landes in fee symple vpon condycion, that the feoffee Mall nat alvene or put away the same to none other, this condicion I saye is voyde, bcause the feoffee is restrayned of hys hole power that the lawe gyuerthe in suche case vnto hym, and, whiche power and lyberte, is in maner included in enerye feoffment. Y: I maye abbpydge hym of parte of hys power, as to condicion with hym that he Mall nat alvene the landes to suche a persone or suche, But of

**Gyfte in
tyle vpon
condicion.**

*otherwise if
gyfts in tail*

gyftes in tyle othcrwyse it is, for yf I gyue landes to a man and to the heires of his bodye lawfully be gotten vpon condicion that he nor his heires Mall alvene the landes to none other persone, this condicion is good and effectuell in the lawe, and yf he or his heires cōtrary to & condicion do alvene them, thā the gyuer or hys heires may very well entre and reayne the lā- des for curt bcause this condicion Mall stande with the fozenamed statute of Westmister so conde whiche prohibytech suche alpenacions to be made.

Bytherunto

Of condicions. Fo.xxix.

¶ Hytherunto haue I spoken of condicions in dede, nowe wyl I shewe what be condicions in lawe that be annexed to any estates.

¶ Knowe ye therfore, that yf the offyce of a Barker, Rewarder, Constable, Bedell, or barlyse or such lyke offyce be graunted to a man for tyme of his lyfe, though there be no condicion at all mentioned in the graunt, yet the lawe speake the of a condicion in this case. whiche is that yf the partie to whom suche offyce is gyven shall nat execute all payntes apperteynyng vnto his of fyce accordyngly, by hym selfe or his lawfull depu- ty, it shalbe lawfull for the grauntour to etre and discharge hym of his offyce and this condi- tion is called a condicion in lawe. There be also thre other maners of estates vnto condicion that is to saye, condicions agaynst the lawe, condi- tions repugnant, and condicions impossible.

¶ First estates vpon condicion agaynst the lawe, be, as yf a man maketh a feoffment, gyft graunt or lease vpon condicion that yf the feoffours, donours, grauntours, or lessours kyll J. B. whiche is nat the kynges enemy, or burne his house wher then it shalbe lawfull to the feoffours, do- nours, &c. to reentre, this condicion is voyde and the state is good.

¶ And lyke lawe is yf such condicions be to be pformed of the parte of the feoffe, graunt, &c.

¶ But yf case be yf a lease for terme of yeres be made of lande vpon condicion that yf the lessee kyll J. B. that then he shall haue fee simple although that he in this case pforme the con- dicion, his estate is nothyng therby enlarged by cause the condicion is agaynst the lawe.

¶ Also ye shall vnderstande that wher a be- legacyon

Estates
vpon con-
dicion in
lawe.

maner of
condicion

Condi-
tions as
gaynst the
lawe.

voide
but the state
is good.

an obligacion in deed wth a condition against
the law, but is void in the law.

Of conditions.

in **Obligacion** is enforced with a condition the which
is against the law: both the obligacion & also
the condition be clerely voyde in the law.

Condicion *ones res* **¶** Estates upon conditions repugnant be as
of a feoffment or a gyfte in taylor be made vpon
condition that the fessce, or donee, shall take no
propyte or shall do no wast, and such other lyke
suche conditions be voyde and the state good
and effectuell in the lawe notwithstanding.
¶ Also of a lease be made for terme of lyfe vpon
condition that he shall do no fealte this is a voyde
condition.

grant good
condition void
Doct 731 **¶** Lyke wyse it is if a man that hath nothyng
in the maner of sale graunteth a rent charge
goynge out of the same vpon conditions & his
person shall nat be charged this graunt is good
and the condition voyde.

Condicion *ones im* **¶** Estates upon conditions impossyble be as
of a feoffment be made vpon condition that if
possyble the fessce goeth nat throughe the see on foot, to
takeys in one day then it shall be lawefull to the
fessce to reentre, this is a frustrate & voyde con-
dition and yet the state is good.

¶ Lyke lawe is of a lease made for terme of ye-
res, &c. or an obligacion with a condition impos-
sible, vt sup^a. the obligacion, or lease is good
and condition voyde to all purposes.

¶ In acte howe straungers shall take advantage
of conditions made. An. xxii. h. viii.

It is enacted that as well person whiche
haue or shall haue any gyfte or graunt of the
kyng by his letters patentes of any land-
des, personages, tytles, or other heredytamen-
tes, or of any reuercion of the same whiche shal
belonge

belonge to any monastery or other ecclesiastical house dissolved or otherwise comme into the kynges handes syns the.iiiij. day of februarye in the .xxviij. yere of our soueraigne lord kyng Henry the eighth, or whiche at any tyme hereto fore shold belonge to any other person, and after came into the kynges handes, as also all other persons beynge grauntes or assygned to the kyng or to any other person, theyr heyres executours, successours, and assygned, shall haue lyke aduantage agaynst þe fermours, theyr executours, administratours & assygned by entrey for nat payment of the rent, or for doynge waite or other forsaithure, & also shall haue þe same aduantage by action onely for nat þe surmyng of other condicions couenantes or agrementes cōteyned in the indentures of theyr leases or grauntes agaynst the sayde fermours, and grauntes, theyr executours, administratours, & assygned, as þe sayde lessours or grauntours the selues myght haue had at any tyme. And agayne mutuallye and on the other syde, the sayde fermours, and grauntes for terme of yeres, lyfe, or lyues, theyr executours, administratours, & assygned shall haue lyke aduantage agaynst the for any condicion couenat or agrement cōteyned in the sayde indenture, as they myght haue had agaynst the sayde lessours & grauntours theyr heyres & successours all benefytes & aduantage of recoveries in value by resco of any warrāy of dede or in lawe by voucher or otherwyse only except. ¶ Doubted that this acte shall nat extende to charge any person for breach of any couenant or condicion compysed in any suche wrytyng but for suche as shall be broken and nat parfor-

Lyuery of season.

med after the fyrst daye of September in the.
xxxii. yere of this kynge and nat befoze .

¶ Lyuery of season, and atturment.

*The alteration of
possession of tenement
can be
with out livery
of season*



Les all feoffmentes, gyftes in
tayle, leases for tme of lyfe, or
for tme of a nothers lyfe, of la
des or tenementes, there can
be no alteracion or transmu
tacion of possession by the as
cendent lawes of this realme on
lesse there be a certayne ceremonye adhybited
and solempnyshed in the ptesence and syght of
neyghbours or others; whiche ceremonye is cal
led lyuery of season.

*The ma
ner of ly
uerye of
season.*

¶ And ye shall vnderstande, that this ceremonye
of lyuery season is done, whan the feoffour, do
nour, lessour or theyr deputye come with the
neyghbours solemply to the landes or tenemen
tes, and they put the scoffe, donee or lesse in pos
session of the sayde landes or tenementes by de
lyuerynge vnto hym a clothe of erth or sprynge
of the doze, or some other thyng in the name of
season, and for this selfe cause this ceremonye
of lawe is called lyuery of season that is to say
a tradicion or gpyng of season.

*Directly
to betwe
ne posses
sion and
season.*

¶ But this ceremonye is nat requyred in lesse
for terme of yeres or in lessees of wyl forasmuch
as the lessour in suche case remayneth still sea
sed, and the lessee hath only possession with
out the seasine, and therfoze the termes of the
lawe be, that such a man is possessed, where as
in feoffmentes, gyftes in taylor, and leases for
lyfe, he is called sealed.

*livery is not re
quyred of lesse
for yeres or
L*

L. H. 314

where

Fo. xxxi.

Summ. in Summ.
viriola

It may ^{be} ^{his} ^{friend}
years ^{to} ^{him}
such ^{is} ^{not} ^{fit}
with ^{an} ^{affair}

**Attorney
ments.**

Howe at
turnout
Malbe
made.

words of Arthur
Science of Arthur

Lyuary of season.

*two gya. made
that shall stand
to w^e the rent
attune n^oth.*

*with out attune.
the rent the seer
shall not pass
Dructs
lyse.*

*Disseise in giving a
peny in way of
and in way of
seisen*

Asyle.

**Writ of
Rescous.**

*Attune not needful
of w^e her there is a
denike of a w^ech
in fee. or a w^ech
charge of attune:
ment is*

¶ If a man maketh fyist one graunt to one person, & after another to another person that graunt shall stande to whiche the tenaunt wyll attune althoughe it be the latter graunt.

¶ And ye shall note, that yf a man be sealed of a manour whiche is parcell indeme, & percell in scripce and dothe alpyne the same shal shoure to another, onlesse the tenantes of þ manour do attune þ scripce shall nat passe, only tenantes at wyll excepted, for it nedeth nat to cause them to attune.

¶ Note furthermoze there is a great dyfference betwene gypunge a peny in name of scalpyne, and gypunge by way of atturnement, for whan it is gyuen of the tenaunt to that graunt in the name of scalpyne it doth nat onely imple an atturnement, but also it gyueth hym luche a scalpyne, that yf the rente afterwarde were broken and nat payde, he maye nowe vpon the scalpyne of the peny, get a lawfull distress take after rescous made, bypunge an Asyle of Houel dist. aspyne; where as yf it were gyuen onely by waye of atturnement he coulde nat bypunge the Asyle, but his wyte of Rescous onely.

¶ Also ye shall vnderstande, that wher lades be deupfable by testamēt by the custome of any auntyente borough or cytye, yf there the reuer syon of any landes be by testamente bequeethed to a man in fee, and the testatour which we cal the deupfoure dyeth the deupfe, that is to wyte he to whome the deupfe was made hath togye with the reuer syon in hym without further remonye of atturnement. Aþerwyle it is yf a man by testament doth bequeath a rent charge that he is sealed of, or a rente scripce, there nedeth

and attourment. Fo. xxxij.

beth none attournement at all.

¶ Yf two ioyntenauntes be of lande and the lord graunterh the seruyces to another, yf one of the ioyntenauntes atturnethe it is pnowgh fynally, yf a lease be made for terme of lyfe, & remaynde to another in capte, the remaynder ouer to the ryght heire of the tenaunte for tyme of lyfe, yf in this case the tenaunt for terme of lyfe wyl graunte his remaynder in fee to another by his dede, this remaynder passeth forthe with without any attournement, for yf any attournement were requyrt, it shulde be made of the tenaunt for terme of lyfe, which in this case is the grauntour hym selfe. And in daye it is þ the grauntoure shulde be inforced to atturne syth an attournemēt is adhibited & had to none other purpose, than to haue the consent & agreement of the partyuler tenaunte, to thynke þ it may appere, that he hath notyce and knowlege of this graunt but here where as þ partyuler tenaunt hym selfe is the grauntour, an attournemēt were superfluous, and moze than neded.

¶ Note furthermoze þ where there is lord and tenaunt and the tenaunt leaseth his tenementes to a woman for lyfe le remayndre ouer in fee the woman taketh a husbade & after the lord graunterh the seruyces. &c. to the husbade in this case durynge the coverture the seruyces be put in suspence. But yf the wyfe dye lyuyng the husbade, the husbade & hys heires shall haue þ rent of the in the remayndre &c. And in this case there nedeth no attournemēt by worde bycause the husbade that ought to atturne accepteth þ graunt of þ seruices the whiche acceptaunce is one attournement in the laws.

nat alqu

lyte.

on of licent

attournement is ynough

Duspere

acceptaunce attorn
in laws.

of

Of seruice.

*Copy excepted
in frank almoyn*



Ytherunto haue I bypelye touch-
ed & ouerrune the sundry kyn-
des and formes of estates. Now
forasmuch as there is no tenure
but hathe vnto a some seruice
kynte and annexed, it were very
necessary to declare howe many kyndes of ser-
uices there be, & what seruice is due to euery
tenure. For the knowlege herof ye shall vnder-
stande, that the principall and most common
kynde of seruice that the tenant owethe to his
lord is called knyghtes seruice.

¶ Knyghtes seruice.

Knyghtes seruice includeth homage, fe-
altye and for the most part escuage, and
whosoever holdeth his lades by knyght
seruice, is bounde by the lawe of this realme
to do vnto his lord homage and fealte, and to
paye for most parte escuage, when it shalbe as-
sessed by authoritie of parliament, as hereafter
more playnly shalbe declared.

¶ Homage

Homage is the most humble and reuerent
seruice that a man of fre estate & condition can
do, for when the tenant shall do homage to his
lord, the lord shall sitte and the tenant than
knele before hym, vpon both knees, holdynge
his handes betwene his lordes handes, and say
in this wyse I become your man trō this day
forthwarde of lyfe and of meber and of earthly
honoure, and to you shalbe faithfull and true
and sayth to you shal beare for the landes I
claime to holde of you sayynge the saythe I
beare vnto our soueraygne lord the kynge, &
then the lord so sayynge shall kyss hym. But
yf an ecclesiasticall person whiche by his ordres

*Howe þ
tenāt shal
do homa
ge.*

and

Knyghtes seruyce.. Fo .xxxiii.

and profession hath addicted hym selfe to the seruyce of God in especyall, shall do homage to his lord he shall say: I do to you homage, and shall be to you faythfull and true, and sayth to you shall beare for the tenementes that I holde of you, launce the sayth whiche I owe to our soueraygne lord the kynge.

¶ Also when a woman nat maried dothe homage to her lord, she shall nat say: I receiue your woman, for it is nat couenient for a woman shulde be the woman of any other then of her husbande that she shall marie, but shall saye even as the ecclesiasticall person sayth: I do you to you homage. &c

¶ And yf perchaunce a man holde the sundrye landes and tenementes of sundrye lordes, and enery of them by knyghtes seruyce, then in the ende of his homage makynge he shall saye launce the sayth I owe to our soueraygne lord the kynge, and to myne other lordes.

¶ And none is bounde to do homage to the lord, oules it be suche a tenaunt as hath in þe nature an estate of fee simple, or fee rable, ether i his owne ryght, or in þe ryght of another.

¶ For yf a woman haue landes or tenementes in fee simple or fee rable, whiche she holde the of her lord by knyghtes seruyce, and taketh on husbande and haue yssue, in thys case the husbande in the lyfe of hys wyfe shall do the homage, because he hath a ryte to haue the landes by the curtesy of Englande yf he ouerlyfeth her, and also he holde the then now in his wyues ryght, yet before yssue hadde betwene them the homage shall be made in bothe theyr names. But yf the woman dye before any

but before yssue. *E. i.* homage shall be made in both their names

What a religious person shall saye whan he dothe homage.

What a woman shall saye.

What a tenaunt shall do homage.

husband taking a wife having land in fee. sh. shall do homage for the title whiche he may haue in the land after the death of his wife

Knyghtes seruyce.

homage made in her lyfe, & the hufbāde in her lyfe, and the hufbande kepethe wyl the landes as tenaunt by curtesy, nowe he Mall nat do homage to his lord by cause he hath nowe an estate but for terme of lyfe.

Fealtie.

Fealtie is as much to say as a fidelitie of saythfulnes, in doyng wherof the tenaunt Mall holde his bande vpon a booke, and saye thus.

Howe a tenāt Mall do fealtie.

**Druer sitte be-
twene ho-
mage &
fealtie,**

Heare you this my lord, I to you Mall sayth full and true, and sayth to you Mall beare for þ landes and tenementes, whiche I clayme to holde of you, & duelye Mall do you the seruice and seruyces whiche I owe to do you at þ termes assigned, as me helpe the God & his lates And then he Mall kysse the booke, but he Mall nat knele as he that dothe homage, nor do such humble or reuerent seruyce as is before declared in homage.

Homage must be done to the lord himselfe. fealty. may be done to the steward. **And ye Mall obserue, that homage can nat be done but to the lord hym selfe, where as the steward of the lordes court or the baylyf may take fealtie for the lord. Also tenaunt for terme of lyfe Mall do fealtie, but homage as I sayde, he can nat do.**

Escuage,

Howe as concernynge escuage, that is to say, the seruyce of the hynde ye Mall vnderstande that he that holdeth his lādes by escuage, whē the kynge maketh a vyage royall into Scots lande for the subduynge of the Scote, is bounde to be with the kynge wātes by the space of xl. dayes well and contentedly arayed and appointed for the warre. And he that holdeth his lāde but by the moyste of the see of knyghtes seruyce, is bounde by the force of his tenure to be with the kynge by þ space of, xx. dayes, and

so

Knyghtes seruyce. Fo. xxxiiii.

so proportionably accordynge to the rate and quantite of his tenure.

¶ But now to our institute and purpose, after this voyage ryall into Scotlande, in whiche the kynge goethe in persone, and after the retyre into Englande agayne, a parliament is wont to be sommoned, in which shalbe prescribed and assessed whan every person that helde his lande by homage and wente nat with the kynge neyther be hym selfe, nor by his depu-tye, shall pay to his lord in satisfaction of his nat seruyng, and accordynge to the ration hereof every tenaunt shall paye to his immediate lord whether it be the kyng or other after the rate & porcyon of his tenure yf he holder the by an holfe fee, he shall paye the hole escuage, yf by a moy-tye, the halfe, yf by the fourth parte of a fee $\frac{1}{4}$ fourth parte. &c. and this money thus assessed is called scutage or escuage, for which the lord to whome it is due, may very well for the none payment thereof distreyn.

¶ But here it is to be noted, that some tenaures by custome vied tyme out of tyme are bounde to paye but the moytye, or the thyrde parte of that whiche shalbe assessed and lympted by acte of parliament.

¶ Yea, and the custome is in some place, that to what summe of money so ever escuage is assessed, the tenautes shall pay neuer but such a certayne summe of money and this kynde of escuage is called escuage certayne, that is to say where escuage is assessed by the parliament to a more or lesse summe the tenaunt to pay to $\frac{1}{4}$ lord. v. s. and no more nor no lesse. &c. such a tenure is called socage tenure & nat knyghtes

Parla-
ment.

Dystres-
for escu-
age.

ten^t by custome
payeth but the
moytye or $\frac{1}{4}$ the

Escuage
certayne.

Of warde maryage.

seruyce, where as the other is called escuage uncertayne.

Escuage
uncert-
ayne.

¶ Synally pe shall vnderstāde, that escuage uncertayne is alwayes adiuged to be knyghtes seruyce, and draweth, vnto it warde maryage and relpse but escuage certayne is no knyghtes seruyce but is of þe tenure of forage: as shall be hereafter moze amply shewed.

Of warde marlage and relpse.

Every knyghtes seruyce draweth vnto it, warde, maryage, and relpse. Wherefore it is nowe ryght expedient somewhat to encreat of them.

Warde.

¶ Ye shall therefore be admonysched, þ when the tēnant which holdeth his lande by knyghtes seruyce dyeth, his heyre male tynge at that tyme within the age of .xli. yeres, the lordē shall haue the warde, that is to saye, the custodie of kepyng of the landes so holden of hym to his owne vse, and profyte, tyll the heyre commeth to the full age of .xli. yeres. For the lawe here presumeth that tyll he come to this age, he is nat able to do suche seruyce, as is of this tenure requyred. Furthermoze if suche heyre be vnmayed at the tyme of the deathe of the tēnant, then the lordē shall haue also the warde and the bellowynge of the maryage of hym.

maryage

The full
age of a
woman.

¶ But if tēnant by knyghtes seruyce dyeth, his heyre female beyng of the age of .xlii. yeres or aboue, then the lordē shall haue the warde neyther of the lande ne yet of the bodye of such an heyre, and the reason hereof is bycause a woman of that age maye haue a husbāde able
so do

And relyefe.

Fo. xxxv.

to do knyghtes scrupce that is to say, to wayte
vpon the kynges maiesties persone when he
suauereith into Scotlande with his army royall.

But of suche an heyre female be within
age of .14. yerres & nat marped at þe tyme of the
death of her auncestour, the the lord shal haue
the warde of the lande holden of hym tyll such
heyre female commeth to the age of .xvi. yerres,
by force of an acte of parliament in the statute
of Westmynster the fyrst. Capit. xxii.

Note that there is a greate diuersitie in the
lawe betwene the ages of females & of males,
for the female hath these many ages appoynted
by the lawe. fyrst, at .vii. yerres of age the
lord her father may distrayne his tenauntes
for ayde to mary her. Seconde at .x. yerres of
age, she is dowable. Thyrde, at .xii. yerres
she is able to assent to matrimony. Fourthe
at .xiiii. yerres she is able to haue her lande, and
shall be out of warde if she be of this age at þe
death of her auncestour.

Fyfte, at .xvi. yerres she shall be out of
warde, though at the death of her auncestours
she was within age of .xiiii. yerres.

Syxtly, at .xxi. yerres she is able to make aliena-
tions of her lades or tenementes. Where as the
man hath but two ages, the one at .xiiii. yerres
to haue his landes holden in socage, and to as-
sent to matrimony, the other at .xvi. to make
alienations.

Ye shall vnderstande that by the statute
of Hertone, the fyrst chapiter, it is enacted þe if
in case the lord do marpe the warde to vyle
laynes or others, where is dispargement, þe
such heyres so marped be win the age of .xiiii.

Capit. iii.

peres

Diversity
of age.

Age of a
woman.

Age of a
man

Of Warde maryage.

*Disparagement
of an heire*

peres or of suche age that the sayde warde can nat consent to the maryage, then yf the fryndes of this heyre complayne and sele them selues geueed with this hymete maryage, the next of kynne to the heyre, vnto whome the heritage can nat descende, may entre into þe landes, and put out the loyde whiche is gardeyne in cheualry, and yf the nexte kynnesman wyl nat thus do, another kynnesman of the infante may do it, & shal take the issue & ppytes to the tchouse & vse of the heyre, & shal yelde accõptes thereof vnto him whan he cometh to his full age.

*Account
gynunge.*

*Dyuers
disparge
ments.*

Also there be dyuers other dyspargements, whiche be nat expessed in the sayd statute, as yf the heyre beynge within age of consent, & in warde, be maryed to a decrepite person or crepyll as to one that hath but one fore or one hande, or that is a dysforme creature, or hath ynge any horrible discaite or conuulsall infirmitie. At these and suche lyke be dyspargements. But here also yf shal vnderstande that, it shal be sayde no dyspargement, onles the heyre be so maryed when he is within the age of discretion, that is to saye: within the age of .xiii. yeres. For yf he be of that age or above and cõsente to such maryage, it is no dyspargement neyther shal the Loide for suche maryage lose his warde, because it shal be reputed and assigned to the folpe of the heyre beynge of age of discretion, to consent to suche maryage.

*no disparagement
but when the
heire is within
age.*

Nowe yf the loyde, than beynge gardeyne offre to the heyre beynge in his warde a conuenient maryage without dyspargement, and the heyre refuseth it, as he may at his choys and election very well do, than the loyde shal haue þe value

And relyefe. Fo. xxxvi.

value of the maryage of suche heyre whā he cōmeth to his full age. But yet yf he marie hym selfe beyng so inwarde agaynst the wyl of his gardeyne, than he shall pay the double value by force of þe statute of Merto before remembred.

¶ And yf he shall note, that yf landes holden by knyghtes seruyce descēde to an infant or chyld within age frō his mother or from any of his auncestours, his father beyng yet a lyue, i this case the lord shall nat haue the maryage of his heyre, for durynge the lyfe of the father, þe sōne shall be in warde to no man.

¶ Fynally, it is to be knowne, þe he whiche is gardeyne in cheualry i ryght, may after he hath sealed the warde, graunte the same epyther by dede or without dede to another man and than he to whom suche graunt is made is called gardeyne in fayre.

¶ Nowe as touchynge relyefe, ye shall know that yf a man holdeth his lāde by knyghtes seruyce & dyeth his heyre beyng of full age (þe full age of the male is .xxi. yeres of the female .xiii) then the lord of whom the lande is holden shall haue of the heyre relyefe.

¶ Note ye þe al Erles Barons or any other þe kynges tenantes holdynge of hym in cheefe by knyghtes seruyce dye and at þe tyme of his deeth his heyre be of full age that is to say .xxi. yeres he ought to pay the olde relyefe for his inherytaunce, that is the heyre or heyres of an Erle for an hōle Erledome one hundredth pōunde. The heyre or heyres of a Barone for an hōle barony one hundredth markes. The heyre or heyres of a knyght one hundredth shyllinges and he þe hath leffe, shall geue leffe accordynge to the olde custome.

Value of
maryage

Statute of Merto

Double
value of
maryage

One shall
nat be
warde bys
uyng hys
father.

Given in Droghda
it in faile

Relyefe, of the
hoirs being of
full age.

old relyefe.

for an Earldome

100 £.

for a Barony

an hundred markes

for a knight

etc.

C.iii.

Rome

Seruyce of castell garde.

Some of fees, lyke lawe is obserued of al other that holdeth of any other there lordes immediatly as vt supra.

*Double knyght
fee.*

¶ Also a man may holde landes of a lord by two knyghtes fees, & thā þ̄ heyr beynge of full age at the deyth of his auncestours, shal paye to his lord for reyse. x. poundes.

¶ Seruyce of castell garde.

Castell garde

Ye shall vnderstande þ̄ a man may holde by knyghtes seruyce and yet nat holde by escuage, nor shall pay no escuage, for he may holde by castell garde, that is to saye: by seruyce to kepe a towne of his lordes castell, or some other place, vpon a reasonable warrenynge, whan his lord hereth that ennemyes wyl come or he al redy come into Englande.

*Grounde i
the lawe.*

¶ This seruyce is also knyghtes seruyce, and draweth to it warde marriage and reyse, as in all cases the common knyghtes seruyce doth

¶ Of graunde sergeantie.



There is also another kynde of knyghtes seruyce, whiche is called graunde sergeantie, that is where a man holder the hys lades or tenementes of þ̄ kyng by such seruyce as he oweth in proper pson to do, as to beare the baner of our soueraygne lord the kyng or his spere, or to conduyte hys hoste, or to be his marshall or to be þ̄ seruat, caruer, or butler at the feaste of the coronation, or to be one of þ̄ chamberlains of þ̄ receypt of his eschequer, or to do lyke seruyces to the kyng in proper pson

Of grande sergeantie. Fo. xxxvii.

sonc, suche maner of seruyce I saye, is called graunde sergeantie, that is to saye a greate or hygh seruyce, and the cause why it is so called is because it is the moste honorable and moste worthy seruyce that is. for he that holdeth by escuage is nat appoynted by hys tenure to do any other more specciall seruyce than another is bounde to holde by escuage, but he that holdeth by grande sergeantie, is bounde to do some specciall seruyce to the kynge.

Also yf he that holdeth of the kynge by graunde sergeantie dyeth, his heire beyng of full age, than the heire shal pay to the kynge for helpe, nat onely £.s. as he that holdeth by escuage shal do, but moreouer the clere perey value of those lādes & tenementes whiche he so holdeth of the kynge by graunde sergeantie.

Furthermoze ye shall obserue that in the marches of Scotlande. some men holde of the kynge by coynage, & is to saye, by blowynge of an hoire so thintente to warne the men of the cōtre when they heare that the Scottes or other theyr enemyes be commynge or be alreedy entered into Englande whiche seruyce is also a kynde of grande sergeantie.

Graunde sergeantie therfoze is as muche to saye in Latyne, as magnum seruitium, that is to say, a greate or hygh seruyce, lyke as petite sergeantie is called paruum seruitium, that is to saye a lytle or small seruyce.

But to reuerte agayne to the mater ye shall note yf any tenant holdeth of any other lorde than of the kynge by suche seruyce of coynage, that it is no graunde sergeantie but yet neuertheles it is knyghts seruyce, & dyaweth to it wards ma-

The most
hygh ser-
uyce.

or any for why
a speciall for

Wise of
the tenat
by graū
sergean-
tye.

Citizens termed

Tenures
by coyn-
nage.

Distinc-
tio of ser-
grante.

Petite sergeantie.

Rule in none can holde by graunde sergeantie but of the
the lawe. kynges owne maiestye.

*Grand Seruan-
ty of the
King.*

*Grand Ser. And
ward marriage
and wife*

¶ Finally ye shal vnderstāde, þat they which holde of the kyng by this seruice called graunde sergeantie do holde of the kyng by knyghtes seruice, and by vertue of this tenure the kynges shal haue of the ward marriage & reliefe, but escuage yet he shal nat haue of the oneles they holde by escuage of him by expresse and special wordes.

¶ Petite sergeantie.



Enaūt by Petite sergeantie is he that holdeth his lande immediatly of our Soueraygne lord & kyng by this maner of seruice, to pay to the kyng perely epyther a Bowe, a Spere, a Dagger, a payre of gauntletes, a payre of Spores of Golde, a Shafte, or suche other small thinges appertaynynge to the warre and this seruice is i effecte but Cocage, bycause that suche a tenaunt is nat bounde by his tenure to go ne do any thyng in his owne proper pason touching the warre, but onely to redye & pay perely certayne thynges to the kyng, as a man ought to pay a rent. Wherfore this seruice of petite sergeantie is no knyghtes seruice, but yet ye shal note, that a man can nat holde neyther by petite sergeantie, neyther by graunde sergeantie, but of the kyng onely.

¶ Homage auncestrell.

¶ Enaūt by homage auncestrell is he which holdeth his lande of his lord by homage and bothe he and his auncestours whose heyr he

Petite
sergean-
tie is co-
uage in
effecte.

Homage aūcestrell. Fo. xxxviii.

he is haue holden the same lande of the sayde lord: and of his aūcestours tyme out of mynde by homage and haue done vnto them homage, and this is called homage aūcestrell, by reason of the longe contynuaunce whiche hath bene by tyle of prescripcyon as well concernynge the tenauncy in the bloude of the tenaunte, as concernynge the lordeshyppe in the lord. And this seruyce of homage aūcestrell draweth vnto it warrantye (that is to saye) yf the lord whiche is now in tyme hath once receyued the homage of his tenaunte, he ought to warrant the same tenaunt, what tyme so euer he shalbe impleaded or suyd for suche lande so holden of hym by homage aūcestrell.

If moreover suche seruyce of homage aūcestrell draweth to it acquittal, that is to say, the lord ought to acquite the tenaunte agaynst all other lordes that can demaunde any maner of seruyce of the tenaunte.

If therefore yf in this case the tenaunt which holdeth by homage aūcestrell be impleaded of his landes, and vouched or calleth his lord to warrantye, who commeth in by proceste and demandethe of the tenaunte what he hath to bynde hym to the warrantye, and the tenaunte sheweth howe he and his aūcestours, whose heire he is, haue holden his landes of hym & of his aūcestours tyme out of mynde, surely the lord yf he can nat denye this and yf he hath receyued the homage of suche a tenaunt, is bounde by the lawe to warraunt hym his lande, so yf the tenaunt lose his lādes in defaute of his lord thus vouched, that is to say, called to warrantye, he shal recourse agaynst hym, so muche in value

Warrē
tie bycau
se of ho
mage aū
cestrell.

Acquittal.

the lord ought
to acquit
the
tenant

Toucher

Of lyveryes.

Disclay-
me.

value of those landes and tenementes which þe
Lorde had at the tyme of calling to warranþe
or at any tyme after. But yf the lorde neuer re-
ceyved the homage of his ternaunt, then he may
very wel whiche he is thus vouched dysclayme in
the lozeshipp or seignory, and so put out the te-
naunt of his warranþe. Where ye shall note
that in every case where the lorde dysclayme in
his seignory in court of recozde, his seignory
or lordshipp is extincte, & the ternaunt shall holde
trothlesforth of the nexte Lorde to hym that
thus dysclaymed.

¶ Thus ye perceyve that homage auncestrell
is nat but where as is a longe cōynuaunce, as
wel in the blode of þe ternaunt in respecte of his
tenauncy, as in the blode of þe lorde in respecte of
his seignory. Wherfore yf the ternaunte dothe
ones alyene his landes to another, although he
purchase the same agayne, yet he shall nat holde
any longer by homage auncestrell bycause of
this discontinuaunce, but shall holde it now by
the volgare and accustomed homage.

Of lyveryes.

Ternaunt i
chefe of
the kyng.

¶ The one dyeth which helde of þe kyng
by knyght seruyce in capite, þe is to
say in chiefe, his heyres tryng withi
age, the kyng (as is befoze declared) shall have
the warde and custodie aswel of the landes as
of the body that is to wyte the maryage yf he be
unmarged. But yf the heyre be of full age at þe
tyme of the death of such aunceitour, yet shall þe
kyng by his prerogatyve royall have pymer
leasone of all the landes tenementes and other
heredit

Pymer
leasyn.

hereditamentes wherof suche his tenaunt was
leased in his demene as of fee. And ife suche an
heire wyll entre into his landes when he com-
meth to his full age before he sue his lyuerie &
receyue leysyn by the kynges, no free holde shall
accresce nor growe vnto hym but he shalbe des-
med an intruder in the kynges possession. Yea
and ife he dye so leysed in the meane tyme, his
wyfe shall haue no dowrie of suche lādes, wher-
fore it lehoueth in any wyse ife such heire alwel
male as female commynge to full age before he
or she entre into thes landes to sue lyuerie. The
manner and forme wherof accordyng to the acte
of parlyament lately promulgated and set forth
I intende byesely to recyte.

Suing of livery

*Intruder
of f. hns
ges. of
cession.*

C How heires ought to sue thes lyueries,
inacted. xxiii. Henr. viii.

Cap. xxi.



N person or persons havinge
landes or tenementes abou. p
perely value of v. li. shall haue
any lyuerie before inquisition
or offree scūds before this che-
tour or other commissioner by
virtue of the kynges writte of

diem clausit extremū or cōmpūpon directed out
of the chauceyre or other courtis havinge au-
thorite to make such writtes or cōmpūssions
whiche shall nat passe out of the same but by
warrant or byll assigned and subscribed by the
mapler of the wardes or lyuerie, the iurats
our, atturney and receyvoir of the sayde court
or, iii. ii. or one of them to be dyrected and desys-
nered to the Chawncellear of Englade, or to any
other

*Writte of
diē clau.
si exis-
mum.*

Cflyneryes

other chawnceler or offyccer haupnge power to
awarde suche wyttes And for the wytyngne &
sealyngne of the same shalbe payde the accustom-
med fees. But yf the lēdes excēde nat the sayde
perly value of. v. li. thē they shal pay for þ seals
of euery such wytt or cōmyssion. vi. d. & for the
wytyngne fyre pens, and nat aboue.

¶ And the inqysytions and offyces here be-
pon founde shalbe returned by the sayde exche-
tours or cōmyssyoners in to the same courte
from whense the wyttre or cōmyssyon was a-
warded, whiche done, the clerkes of the petre
bagge shal receyue the same offyccers and make
a transcripte therof to the sayd Mayster of the
wardes & lyueryes. And thē the sayde mayster
and the suruepour atturney and generall recey-
uour, or. iiii. of them wherof the mayster or sur-
uepour to be one, shal conenaunte and indente
with suche persones for theyr lyuerye of the ca-
pylles, manours, lordshypps, landes tenemētes
and heredytamentes cōpylled or nat cōpylled
in suche offyces, and shal make and set the rate
and pryce for the same, and appoynt the dayes
of payment therof by oblygacion to be takē for
the same to the kyng.

¶ And euery byll for any specyall or generall
lyuerye assygned by handes of the sayde may-
ster, suruepoure atturney, recepuoure or. iiii. of
thē, wherof þ mayster or suruepoure to be one,
shalbe warrant sufficient to the lord Chancellor
our other offyccer auynge power to passe ly-
uerres vnder any of the kynges scales accor-
dyngly. In whiche case the clerkes of the petre
bagge, or other clerkes by whom the lyuerres
be wytten shal receyue aswel for thē selues as
for

For other suche fees as hath bene accustomed.

Item every person may sue at his pleasure a generall lyuerie for any manours, landes, tenements, rentes, reuerfions, remainders, or other hereditamentes wherof the cleere percelle value shall nat excede. xx. li. Doubted that an office be therof founde and a warrant fynde obtained of the sayd mayster and others as is aforesayde.

Generall
lyuerie.

And where such generall lyuerie is sued, yf the landes excede the percelle value of. v. li. they shall pay for the Seale. xx. s. iiii. d. and all other fees accustomed as afterwarde shall be declared But yf they excede nat the percelle value of. v. li. they shall pay but these fees folowynge, that is to say, for the seale of the lyuerie. xii. d. To the clerkes of the petty bagge for the wytyng & the inroullynge. xx. d. For the respyte of the homage in the Banapar eyght pens. To the lord greate Chamberlayne twenty pens. To the maysters of the Rolles. xx. d. And to the clerke of the lyueries for the warrant and inroullynge of the lyuerie. xx. d.

Item no persone or persons shall paye in the chequer or any other courtes for y^e respecte of homage for any lates or hereditamentes nat exceedynge the percelle value of. v. ponde, aboue eyght pens. And for the enteynge therof and warrant of attorney aboue. iiii. d.

Respyte
of homa
ge.

And the value of suche landes and hereditamentes nat exceedynge the percelle value of. xx. li. shall be taken as it is lympred in the offices founden therof except by the examinacion and certyficat of the sayde mayster surueyore attorney, and receyvoure, or thye of the, it shall otherwys

Of lyueries.

otherwysse appere and be declared in any of the kynges courtes.

**Paine of
forfeiture**

**Fees of
an offyce.**

If any no Escheatour shall fynde onely by vertue of his offyce for inqurye of the tenure tytle or value of any landes or other hereditaments holden of the kyng beynge of þe perely value of .v. li. or aboue without the kynges wytte to hym directed vpon payne to forsaite .v. li. for every tyme he shall so do. Neither shall he take for the syndynge of any offyce of lates nat exceedynge þe perely value of .v. li. aboue .xv s. that is to saye .vi. s. viii. d. for hys owne fee, And .iii. s. iii. d. for wytyng of the offyce.

And for the charges of the iurp. iii. s. And for the officers that shall receyue the offces in any court of recoorde ii. s. vpon payne that the escheatour doynge otherwysse shall for every tyme forsaite .v. li. And vpon lyke payne the officers of every court of recoorde where suche inquisititons shalbe retourned, beynge offred vnto the within one moneth nexte after þe syndynge thereof, shall receyue the. The one moyte of al which forsaitures to the kyng, and thother to þe partye that wyl sue for the same. &c.

And they whiche hereafter shalbe in case to sue lyuerie whose landes and tenementes exceede nat the perely value of .v. li. may lawfully sue forth theyr generall lyuerie by warrant had from the sayd court as is aforesayd, although none other inquisition be therof had nor certified, payenge neuertheles þe fees befoze remembred.

Asynally every person shall sue forth his patent for his lyuerie within thre monethes nexte after the assignement of his byll, or els hys byll assigne d

assignes to be voyde and of none effecte.

C Here after ensueth the fees accustomed of the generall lyueries.

C Fyyste to the clerkes of the petty bagge for the respecte of homage and sealte the wytyngs and inrollynge. xliiij. s. ii. d. To the lord grete Chamberlayne. xl. s. To the mayster of the Rolles. iij. li. To the clerkes of the lyueries for wytyngs of the Indetures & obligaciōs. xx. s. besyde counsell

C The fees of the specyall lyuerie accustomed to be payde be these folowynge that is to say for the Hygnet iii. li. x. s. for the pyue sayle xxx. s. for the great scaple. xlii. s. vii. d. To the clerkes of the petty bagge. xl. s. To þ mayster of the lyueries clerke. xl. s. for the enrolment of the knowledge of the endeture. xii. s. To þ lord grete chāberlayne of Englāde. xl. s. for þ wyte of allowaunce for the same lyuerie. x. s. vi. d.

C And note ye that sometyme in speciall cases the fees be moze and sometyme lesse as the case and matter dothe requyre.

C Hyther to haue we bryefly touched all kyndes of knyghtes serupce, and thynges incident to the same. Nowe well we with lyke bryefnes declare thother kydes of serupces whiche cōmōly be cōpiled vnder the generall name of socage for euery lande or tenemētes eyther it is holde by knyghtes serupce, or elles it is of socage tenure or at the leest way of the nature of socage tenure, whiche in effecte is all one.

Wherfoze fyyste we shal desygne what Socage is in the proper significacion, whiche done, we shal peruse þ other kyndes of serupce whiche be of the nature of Socage tenure.

f. i.

Socage

Cf focage.

What so
cage te,
nure is.



Socage is pperly where the te-
nant is bounde to come wth
his soke. & is with his plowe
to care and sowe percell of the
demene landes of his lord,
which scrupce in ancyent tyme
was very comon, but now by
the mutual consent bothe of the lord & of the
tenant it is conuerted for the mosse parte into a
perely rent. Howe be it the name of socage shyd-
deth styl. Wherfore now all that is nat knygh-
tes scrupce is called by the name of socage.

So that yf a man holdeth by fealtye ones-
lye or by fealtye and homage for all maner of
scrupce, it is but socage tenure for homage as
sone maketh nat knyghtes scrupce, yea yf a mā
holdethe by escuage certayne, as I haue sayde
heretofore, he holdeth in effecte but by socage.

Howe where a man holdethe his landes by
socage & dyeth, his heyre beyng within the age
of. xiiii. yeres. the lord shall nat haue & warde,
but the nexte of kynne to the heyre to whom the
herptage can nat dyscende shall haue the tyle
and wardeshyppe as well of the lande as of the
heyre, tyll the heyre come to the age of. xiiii. ye-
res, and suche tutor or gardeyne is called gar-
den in socage, and shall recorde accomptes to &
heyre of the issue and profytes that he hath
receyued of the landes durynge suche tyme, des-
cuyng his resonable costes and expences,
so that he shall nat haue the wardeshyppe to his
owne vse and profyte as the lord whiche is
gardeyne in cheualry hath. And in case & gar-
den in socage dyeth before he hath made his
accompte the heire is without remedy bycause

Garden
in socage

Francke almayne. Fo.xlii.

no wyte of accompt lperh agaynst thexecutours but for the kynge onelye.

¶ Finally ye shall vnderstande that whan tenaunte in socage dyerthe, the Lord of whd the lande is holde shall haue relpese, that is to saye the value of the rēt that is perly due vnto hym of the tenaunty, & spoe the perly rent, so that in effecte after the deathe of his tenaunte he shall haue of the hys. ii. rentes same that for the relpese he may distreyn forth with, but for the accustomed rent he can nat distreyn tyll the vsus all daye of paymente be come.

Rentes

Distres.

¶ Francke almayne.



Tenaunt in Francke almayne that is to saye, in fre almyse is where a Bpshopp, Deane, or any other ecclesiasticall pson holdeth of his Lord in pure and perpetuall Almes and suche tenure began fyrst in olde tyme, after this maner. Whan a man was leased in auncient tyme of certayne lādes or tenementes in his demene as of fee, and of the same tenementes enfeoffed an Abbot, and his couent or a Wyour and his couent, or any other person ecclesiasticall as a Deane of a Colle. Mayster of an hospytall, or suche lyke to haue and to holde the same landes to them and to theyr successoures for ever in pure and perpetuall almyse, or i francke almes, in these two cases the tenementes quide be holde in francke almayne.

The first foundacyd of franck almayne.

¶ By force of which tenure they that holde in Francke almayne after this loze be bounde of

Full

rygh

Francke almayne.

¶ First in
francke
almayne
shall do no
fealte.

ryght before god to make orisons & prayer to
celebrate masses & to do other dyupne seruyces
for the soules of theyr gr. ūters and seffees and
for the soules of theyr heyrers whiche be dead &
for þ̄ prosperous estate of theyr heyrers that be
now aljue. And bycause of ryght they be bounde
to thys deuynne seruyce, they be dyscharged by
the lawe to do any other prophane or cozporall
seruyce, as fealtie or suche other lyke.

¶ But neuerthelesse if suche as holde theyr res-
nementes in francke almayne do omitt a leaue
vndone these deuynne seruyces wherunto they
be bounde before god, the lord can nat distrayn
them, ne yet compel them by any other meanes
by the course of the common lawe, but the ones-
ly remedy is to complayne of them to theyr oꝝ
dynary, who of ryght ought to compel such ec-
clesiasticall personnes to do the deuynne seruyces
due as aforesayde.

¶ Concern-
ing by diuine
seruyce.

¶ Distresse
for dyup-
ne seruyce.

¶ But here ye shall note that yf a persons
of a churche or any other ecclesiasticall person
holdeth of his lord by certayne dyupne ser-
uyce to be done, as to synge masse euery fryday
in the weke, or Placcho and dirige, or to finde
a priest to synge masse or to distribute in almsh-
ouses to a hundredth men at suche a day in all
these cases yf suche diuine seruyce be vndone,
the lord may very well distrayne, bycause the
seruyce is put here in certayne.

¶ Nowe I sayde, that yf in olde tyme a man
dyd incoffe such ecclesiasticall person after suche
sort, he shulde holde his landes in francke al-
mayne, but at this daye it is otheerwyse, for by
the reason of a statute called, Quis employes
terrarii, Mste. vii. li. cap. i. No man can aliens
us

Of burgage. Fo. xliii.

ne graunte landes oꝝ tenementes in fee simple
to holde of hym selfe, so that nowe yf a man be
yuge sealed of landes in fee simple graunterh
the same by licence to an ecclesiasticall persone
in franke almozne these wordes franke al-
mozne be voyde, and the ecclesiasticall person
shall holde them immediatly of the lord of the
feoffor by the same scrupces þ the feoffor helde
so that no man can holde in franke almozne,
but by force of a graunt made before the sayde
statute, onely the kynges maiestye excepted, for
he is out of the compasse of the statute.

¶ Finally, ye shall note that where as a man
holderh in franke almozne, his lord is bounde
by the lawe to acquitte hym of all maner of ser-
vice that any other lord can haue oꝝ demaunde
out of the sayde landes.

¶ That yf he doth nat acquitte hym but suffre
him to be distreyned, thā he shall haue agaynst his
lord a certayne wytte, called a wytt of meade
¶ shall recouer agaynst hym his damages & cos-
tes of his luyte.

*Wytt
meane.*

*A writt of meane
agaynst lord*

¶ Of burgage

A Tenure in borzage, is where an assise
boroughe is, of which the kyng is lord
and the whiche haue tenementes with
in the same broughe holde the same of þ kyng
payenge a certayne yerely rent, which tenure, in
effecte is but socage tenure. Lykewys it is,
where as any other lord spiritual oꝝ temporal
is lord of suche broughe.

*Socage
tenure.*

¶ Here ye shall note that for the most parte
suche ancient broughes and townes haue by
their customes & usages whiche other townes

Customs

*Brevow
Engliffe*

**Dower
by custo-
me.** *of
w^ho^le*

**Deuyle
by custo-
me of
broughe.**

Of burgage.

haue nat. For some broughes haue a custome that the yongest sonne shall inheryte before the eldest, whiche custome is called comōy broughe Englische.

I Also in some broughe by the custome the woman shall haue for her dower all the landes and tenementes wherof her husbande was seised at any tyme duryng & matrimony & coverture

I Moreover in some broughes a man maye bequeathe and deuyle his landes or tenementes by testamente at the tyme of his death, and by force of suche deuyle or legacy, he to whom the bequell was made, after the death of & testator whiche made suche testamente may be force of his auntyents custome entre into the landes so to him bequethed or deuyled without any lytelle of lease to hym made or further ceremonye of lawe.

I Howbeit howe and in what maner a man may at this daye deuyle his landes by his laste wyll and testamente by force of a certayne newe statute, it shalbe hereafter declared.

I Dyuers other customes in Englande there be contrarie to the course of the common lawe whiche yf they be any thyng prouable & maye stande with reason are good and effectual, nat withstandinge they be agaynst the comon lawe

I And note that no custome is allowable but suche custome as hath be used by tyle of prescription or tyme out of mynde.

Of vyllenage or bounde seruyce.

A Tenout in vyllenage is properly whā a vyllayne, that is to saye, a bonde man holderth of his lord, whose bonde man he

Of vyllenage. Fo. xliiii.

he is, certayne landes or tenementes, accordyng to the custome of the Manoure, or otherwyle at the wyll of his Lordes and do to his Lordes vyllayne seruyce, as for to beare and to carpe the donge of his Lordes out of the Lytyle or out of the lordes Manoure, and it laye to vpon the demecane landes of his lordes, or to do suche lyke seruyce and vyllayne seruyce. Howe be it free men in some places holde theyr tenementes and landes of theyr lordes by custome, by suche sorte of seruyce, and there tenure is called tenure in vyllynage, and yet they them selues be no vyllaynes ne of seruyce condicion but freyne For þe lade holde in vyllenage makethe nat þe tennant a vyllayne, but contrarie wyls a vyllayne may make free lande to be vyllayne lande vnto his lordes. As yf a vyllayne purchasethe lande in fee symple or in fee taylor, the lordes of the vyllayne may entre into the lande so purchased by his bondman and put hym & his heires out for ever, & this done, the lordes yf he wyll may lease the same lande to his vyllayne to holde of hym in vyllenage.

¶ And here ye shall vnderstande, that seruytute or vyllynage is the ordynauce, nat of the lawe of nature but of that lawe, which is called Jus gentium, by whiche a mā is made subiecte contrary to nature, vnto another mans domynion. For he that is a vyllayne or boundeman, epyther he is so by tytle of prescripcon, that is to say, he and his auncestours haue bene vyllayne tyme out of mynde, or els he is a vyllayne by his owne confessyon in courtes of recorde, so that all vyllaynes epyther they be bozne vyllaynes, or elles they be made so. They be

f.iiii.

bozne

Howe
somme
holde in
villenage
and be no
villaynes

villain land ma
keth not a free
man a villain
but econtra
ry.

villain by the
law of Jus
gentium

Diuisio.

villains by prescript

Of vyllenage.

hoſne vyllaynes whan theyr father brynge a bonde man hym ſelfe beggetteth them in lawſul wedlocke, eyther of a free woman or of a bonde woman ſo; ſo that the father be bounde, the iſſue of hym lawefully begotten muſte nedes be bounde by the lawes of Englande, hauynge no regarde to the condycion of the mother, where as in the cyuill lawe of the Romanes it is clene contrarye. For there, *partus ſequitur v̄trem*, that is to ſaye: the ſeruitute or bondage of the mother maketh the chyld bounde and nat the bondage of the father. Howe be it the baſtards ſonne of a bondeman ſhall nat be bounde & the reaſon is bycauſe a baſtard is. *Nullius filius*, in the lawe, that is to ſaye no mans ſonne.

Baſtards

¶ They be made bondemen or vyllaynes two wayes, eyther by theyr owne proper acte, as whan a free pſon beyng of full age wyl come into a court of recorde, and there confeſſe hym ſelfe bounde to another man.

¶ Or elles by the lawes of Armes called *Ius gentium*: as whan a man is taken pryſoner in warres, and is compelled to ſerue and become the thral and bondeman of hym that toke hym, the lawe calleth ſuch perſon a vyllayne & is to ſaye a ſlaue and thral.

**Diſtinction of
vyllayns**

¶ And ye ſhall note that vyllaynes be properly called in Latin *ſerui*, bycauſe that whan they be taken in war, the capteynes be wont nat to kyll them, but to ſell them, and ſo to ſaue theyr lyues, ſo that they be called *ſerui a ſeruando*, & is to ſay of ſauynge. They be alſo called *Man cipia*, a *manu capiendo*, bycauſe that they be taken by hande & power of theyr ennemyes.

¶ Howe as I ſayde by the lawe of nature we

or bonde seruice Fo. xlv.

We are all bozne free, but after that by the law of Gentilitie, seruitute or bondage dyd presse and invade the world, that ensued the benefyte of manumission, Manumission is quasi de manudacio, that is to saye a gyuyng out of the hande or power. For so longe as a man is in bondage and seruytute, he is subiecte to the hande and power of another and whan he is manumitted he is made free and deliuered fro the sayde power, so that a manumission is nothyng elles than an enfranchysment that is to saye, a wytyng testifpence that the Lord hath enfranchysed his vyllayne and all his of spryng and sequell.

¶ Also yf the lord maketh to his bondeman an oblygacion of a certayne sūme of money or graunteth to hym by his dede an annuytpe or perely pensyon, or leaseth to hym by dede lādes or tenementes for terme of yeres, any of these actes do imply an enfranchysment.

¶ Lykewyse yf the Lord makethe a feofment to his vyllayne, and maketh vnto hym liuery of seisin, this also is an infraunchysment and secret manumysyon. Wysely to speake, wheresocuer the Lord compelleth his vyllayne by the course of the lawe to do that thyng that he myght otherwyse enforce hym to do or to suffre without the auctorytpe and compulsyon of the lawe, he doth by implication enfranchyse his vyllayne, as yf the Lord wyl byngge as gaynte his vyllayne an action of det, an action of accompt, of couenant or of trespase, these & suche lyke be in the eye of the lawe enfranchysmentes & manumissions, bycause the Lord in all these cases may haue the effects and pur-

f.v.

pose

Manus
mission. q/s
mandatio
vel manumissio

What
actes ma-
keth ma-
numissio
in lawe.

Cause of
infraun-
chysment.

Of vyllenage.

pose of his suite (that is to saye) the goodes re-
tels, and correction of his bondemen without
cōpulsion of that lawe euen by his owne prople
power and auctoritie whiche he hath vpon his
vylayne. But yf the Lorde dothe sue his vyl-
layne by an appeale of felonpe, the vylayne be-
yng lawefuly endyted of the same before thys
is no taryte manumysyon or infranchisement,
for the Lorde thowhe he haue power to beare
his vylayne and to spoyle hym of his goodes,
yet he can nat by the lawe of this realme put
hym to deathe.

¶ Ye shall also vnderstande, that yf a mans
bondman purchased landes or acquyte and get
vnto hym any other thyng the Lorde may forch
with entre, and cease the same into his owne
handes. Wherfore yf the lorde wyl bynge a-
gaynst his vylayne a Priuie or reddar, by
whiche he demaūdeth agaynst his vylayne any
landes or tenementes, this implieth an infran-
chisement, for asmuch as he byndeth hym selfe
to the prescripce and auctoryte of þ lawe where
as he myght vse his owne auctoryte, by en-
trynge and sealyng the sayde landes.

Distincō ¶ Finally ye shall marke that some vylaynes
be called vylaynes in grosse, and other some
vylayne in grosse. they of which the lorde is seuerally sealed, and
nat by reason of any lordshipp or maner, but
they be called regardant whiche do be longe to
a manoure, or whiche the Lorde is sealed, and
vylayne the sayde vylaynes haue bene regardant, that
regardar is to saye, expectant and attendant tyme oute
of mynde, to the Lorde of the sayde Manour in
doynge vnto hym suche seruyces as to a vyl-
layne

Of auncien demene. Fo. xlvj.
layne appertayne.

¶ Of auncien demene.

There is also a certayne kynde of tenure
whiche is called auncien demene, & that
tenauntes whiche holde by this seruyce
be free holders & holde by charter & nat by cos-
py of courte rolle, or by the verge after the cus-
tome of þ manour at the wyl of the lorde. And
these tenauntes be suche as holde of those Ma-
nours which were saynt Edwardes the kyng
or which were in the hādes of kyng Wyllyam
the conquerer, and these Manours be called
the auncien demesnes of the kyng or the auncien
demesnes of the crowne of Englande. And to
such tenauntes which holde of such manours be
many and dyuers lybertes goun and graunted
by the lawe, as to be qupte of tollie & passage &
suche lyke impostrions whiche be demaunded of
men for thei goodes & cateles solde or bought
in fayres and marketes by the, also to be qupte
and free of taxes and tallage graunted by par-
lyamēt, except that the kynges maieste do tare
auncien demene (as to hym onely appertayneth
whan he thynketh good for greate and vrgen)
conyderacions Tenauntes also of auncien de-
meane ought to be qupte of paymentes to thes
pences & charges of the knyghtes which came
to the parlyament, also they ought nat to be im-
panelled nor put in surpes and inquestes in the
country out of thei manour or seignorie of aū-
cien demeane for the landes whiche they holde
of suche manour, onles they have other landes
at the common law for which they ought to be
charged. And yf suche tenauntes or any of the
whiche

by auncien
John for aū-
te to hold
by charter
not by copy
of C. Roll

Dis. Berkes
only to the
auncien demene

Of auncien demene.

which holde of the Manour of aunciente demene be distrained to do vnto them more other seruyces or customes then they or theyr auncetours haue vsed to do, then may they sue a certayne lord, commaunding hym that he distreine them nat for to do other seruyces or customes then they haue ben accustomed to do.

**Wryt of monstra-
uerunt.**

¶ And for further knowlege hereof ye shall vnderstande that in the Escchetour there is a boke called Domesday which boke was made in the tyme of the sayde saynt Edward. And all the landes whiche were in the seisin and in the handes of þe sayd saynt Edward at þe tyme of the makynge of the sayde boke be auncien demene. But the landes whiche the were in other mens handes thonghe they be wrytten in þe sayde boke, be franke fee & no auncient demene.

**Franke
fee.**

¶ Finally it is to be noted, that tenants of auncien demene shall nat be impleded for theyr sayde lades out of the manour where of they so holde, and yf they be, they maye shewe the matter and abate the wrytte. But yf they ones answer to the wrytte, and iudgement given, then the landes haue loste the nature & benefyce of auncien demene & are become franke fee, that is to saye, pleadable at the comon lawe for ever more. And this haue we spoken of þe diuersyte of tenures.

**Abatement of þe
wrytte.**

Of rentes

FOrasmuche as vpon every tenure there is comonly reserved one ree or other therfore I thynke it good som what to treat of rentes. But ye must vnderstande that there be

be sundry sortes of rentes. There is one kynde of rente whiche is called rent seruyce. Another which is called rent charge, & the thyrde which is named in frenche rent secke, that is to saye in Latin redditus siccus, a drye rent. Nowe rente seruyce is so called bycause it is knyt to the tenure and is as it were a seruyce, wherby a man holdeth his landes or tenementes, or at lest waye when þe rentes vnsuerably coupled and knyte with the seruyce, as for an example, where the tenaunt holdeth his lande of the kyng or of any other lord, by fealte and by certayne rent or by homage, fealtie and certayne rent, or by any other sortes of seruyces & by certayne rent, this rent is called rent seruice. And here ye shall note that yf this rent seruyce be at any tyme when it ought to be payde, behynde and vnpayde, the lord of whom the lande or tenement is so holden, whether it be in fee symple, fee taylor for terme of lyfe, for yeres or at wyll, way of common ryght entte and dyscrayne for the rente, though there be no mencyon at all, ne clause of distresse put in the dede or lease. I sayde before that the nature of this rent seruyce is to be coupled and knyte to the tenure, for where no tenure is there can be no rent seruyce. And therefor, yf at this daye I be seilled of landes in fee symple, and make a dede of feoffemente of the same to another in fee symple, referuynge by þe same dede a rent, this can be called no rent seruyce, bycause there can be nowe no tenure betwene the lessour and the lessee. Oherwys it is of feoffementes in fee symple, made before þe statute of Westmester the thyrde Capit. i. called Quia emptiores terrarū. For before þe makinge

Distinction
of rent seruyce.

Distresse
of common
ryght. for
rent seruice

no tenure
nowe

Of rentes.

*Ne rente per se
releueth by
any gift in
fee simple*

kyng of that statute, yf a man had made a feof-
fement in fee simple, reseruyng to hym a cer-
tayne rent, yet though it had bene without dede
here had ben begonne & created a newe tenure
betwene the lessour and the lessee, and the lessee
shulde haue holden of the lessour, who by ver-
tue of the same myght of comon ryght haue dis-
creyned for such rent. But at this day by force
of the sayde acte, there can be no such holdyng
of tenure created or begonne, and consequents-
ly no rent seruyce can be at this daye reserued
vpon any gyfte in fee simple, except it be in the
kynges case, who byng the chefe lord of al ouer
myght and may graue lades to be holden of hym
Thus ye se, that at this day, no subiecte can re-
serue any rente seruyce vnto hym oules the re-
uercion of the landes or tenementes that he shal
graunt, be still in hym as where he graunteth
them in fee simple, or maketh but a lease for ter-
me of lyfe or for certayne yerres or elles at wylle
For in all these cases the reuercion of the fee
simple remaineth still in hym, and therefore yf
here be any rent reserued it is to be called a re-
seruyce, and is of common ryght dyscrapable
though there be no clause of distrasse in the dede
of feoffment or lease.

¶ But here ye wylle aske me, whan in the case
before remembred, a man at this daye graueth
cleane awaye the lande or tenementie fro hym
selfe in fee simple, so that there is no maner of
reuercion of the same remainyng in hym at all
and yet neuertheles reserueth vnto hym by his
dede a certayne rent what maner rent shal this
be called? I answer, yf there be in the dede in-
dented any clause of distrasse, that is, that yf y
rente

rente be behynde vnpayed, it shalbe lawfull for the feffour to entre and to distreynne, it is called a rent charge, forasmuche as the lande is charged therewith, but howe of comon ryght no, but onely by vertue and force of the wyrtenge.

¶ But on the other syde, yf there be no suche clause of distresse put in the indenture, than the rent so reserved shalbe called a rente secke.

¶ Apyewyse, yf a man that is sealed of certayne landes, wyll graunt epyer by indenture, or by his dede polle that is to saye syngle a nas indentured, a yerly rent out of the same landes to another whether it be in fee symple, fee tayle, for terme of life, for yeres or at wyl, with clause of distresse, than this rent is called a rēt charge and he to whom such rent is graunted may for default of payment thereof, entre and distreynne. But contrariwise yf the graūt be made without any such clause of distresse, it is called rēt secke that is to saye a dype rente, bycause he can nat come to it in case it be denyed, by waye of distresse in so muche that yf he were neuer seyled of it, he is by the course of the comon law with our remedye. Otherwyse it is of a rent charge for here he to whom the graunt is made, when the rent is behynde may chose whether he wyll sue a wypte of annuite agaynste the grauntour or distreynne for the rent behynde, & certayne p distresse tyme he be payed accordyngly. But he can nat haue bothe remedies togyther but maite take hym to the one, for yf he ones recover by a wypte of annuite, then is the layde discharged. And yf he sue nat his wypte of annuite, but distreynne for the arcerages, and the venous sueth a repleyn, where vpon the other auoweth

Rente
charge.

Rēt secke.

Annuite

Repleyn,

Of rentes.

Esopell. knoweth the takinge of the distresse in courts of record: then is the lāde charged and the person of the grauntoure discharged of the action of annuite.

¶ Ye shall also vnderstande, þ̄ yf a man wyll that another shall haue a rent charge cōmyng out of his lande, and yet wyll nat that this person shall be any meanes charged by wyt of annuite, he may than haue such clause in the ende of his dede. *Prouto q̄ p̄sens scriptum, nec quicq̄ in eo contentum villo pacto se extendat ad onerandā personam meam per h̄cū seu ac̄tionem de annuitate, sed tantummodo valeat ad onerandum, terras, fūdos et tenemēta mea de annuo redditu p̄dicto.* If this or such lyke clause be added, then the lande is charged and the person of the grauntour is dyscharged.

¶ Also yf a man wyll make a dede of graunte in this wyse, that yf Iohn at Style be nat yere ly payde at the feast of Chyrtmas for terme of his lyfe. *xx. myllynge* iterlyng, þ̄ then it shalbe lawful for þ̄ sayde Iohn at Style to distrayne for it in the Manoure of Dale, thys is a good rente charge, because the Manour is charged with the rent by way of distresse, and yet neuer theles in this case the person of hym that made such dede is discharged of any actiō of annuite forasmuch as he graunted nat by his dede any annuite to the sayde Iohn at Style but onely graunted, þ̄ he myght distrain for such p̄rly r̄t.

¶ Further moze ye shall note, that yf a man hath a rent charge to hym and to his heyes cōmyng out of certayne landes, and dothe purchase any parcell of this lande to hym and to his heyes, in this case the hole rente charge is quenched

quenched and gone, and the annuities also, the cause is this, that a rent charge can nat be in such a case appoynted. Otherwyle it is of a rent seruyce, as for example yf one which hath a rent seruyce, of. xx. d. by yere dothe purchase parcell of the lande oure of whiche this yerey rent of. xx. d. is commynge this shall nat extyn- gyshe nor drowne the hole rent, but for that p- cell onely. For rent seruyce in such a case maye verye well be appoynted and rated accor- dyng to the value of the lande. Yet there be sortes of rentes seruyces whiche in no wyle can be appoynted. As where a ternaunt holdeth his lande of his lord by the seruyce to rendre to his lord yerey at such a feast, an hoise, a ryng of golde, a redde rose, a gylouer, or such lyke, yf in this case the lord doth purchase par- cell of the lande thus of him holden, this ser- uyce is gone, bycause such seruyce, can nat be se- uered nor appoynted. All escuage is a seruy- ce that may verye wel be appoynted accordyng to the asseurance and rate of the lande.

¶ But where any lande is holden by homage and fealtye, yf the lord purchaseth parcell of the lande, yet he shall haue his homage and fe- altye styll of his ternaunt.

¶ Ye shall marke also, that yf a man maketh a lease of landes to another for terme of lyfe, reseruyng to hym certayne rent yf in this case he graunteth that rent to John at Hyle sa- uynge to hym selfe the reuercyon of the sayde lande, this rent is but rent secke, bycause John at Hyle that hath the rente, hath nothyng in reuercyon of the lande.

But yf he graunteth the reuercyon of the lande.

Exten-
guishmet,

Rente
seruyce
can nat be
appoynted.

Of rentes.

**Returny
rente.**

to Johh at Roke for the terme of lyfe and the
tenaunte atturndeth accordynglye, then hath
Johh at Roke þ rent as rent scrupce bycause
he hath the reuerfyon for terme of lyfe.

**Rente is
incitit in
a reuers
fyon.**

¶ Iphewfse it is, yf a man gyueh landes of
tenementis in faple, referuynge to hym and to
his hepyes certayne rent, or makerhe a leafe of
the lande for terme of lyfe, referuynge certayne
rente yf he graunterh the reuerfyon to another
and the tenaunt atturndeth accordyngly. þ hole
rent and scrupce ſhall paffe by this worde re
uerfyon, bycause the rent and ſcrupce in ſuche
caſe be incident to the reuerfyon & do paffe by
the graunt of þ reuerfyon. But yf he had graū
ted þ rent onely, the reuerfyon had nat paffed.

¶ **What remedy a man hath to
recouer his rent when it
is behynde.**



Shewed you before, that for
a rent scrupce yf it be behynde
ye may diſtrayne in þ grounde
euen of cōmon ryght though
there be no ſuche claufe of dy
ſtreſſe mencōned in the dede
of ſcoffement, graunte or leafe
Alſo for a tē charge ye may diſtrayne or byrnyng
pour wyte of annuittie at pour choſe & electi
on, as before is declared. But of a rente ſerke
yf ye were neuer ſepſed of it nor of any parcell
therof, yf be without remedy by courſe of the
cōmon lawe, for ye can nat diſtrayne for it, nor
yet byrge pour wyte of annuittie but if ye were
ours ſepſed of it or of parcell therof and it is
eſſonnes behynde, thē pour remedy ſhalbe this.

Ye

Ye muste go eyther by your selfe or by your de-
bte to the lande or tencement out of whiche the
rent is commynge and there demaunde the arres-
rages of the rente, whiche yf the tenaunt denye
to pay, this denyall is disseisin of the rent. Also
yf the tenaunt be nat then readye to paye it, thin
counternaileth a denyall whiche is a disseisin.
Whocouer yf neyther the tenaunte nor none o-
ther man be remaynyng vpon the grounde to
pay the rente, when ye demaunde the arres-
rages, this also is a denyall in the lawe, and is
in very dede a disseisin. And of these disseis-
nes ye may haue an assise of mouell disseisin a-
gaynst the tenaunt, and shall recouer seisin of y^e
rent and the arresrages and your damages and
costes of your wyte and of your plee. And yf
after such recouerye and execution had, the rēt
be agayne at another tyme denyed you, then ye
maye haue redisseisin and shall recouer your
double damages. &c.

If thalbe therfore wysedome for a mā whē
a rent is graunted by any personne vnto hym,
to take of the tenaunte of the lande a peny or
an halpeny in name of seisin of the rente, and
thē yf at the next day of payment the rent be de-
nyed hi, he may haue an. Assise of mouell disseisi
And ye shall note, that there be thre causes
of disseisin of rent scrupce, that is to wete re-
trouise, repleyn, and incloser. Retrouise is whē
the lord vpon the lande holden of hym distray-
neth for his rente behynde, and the distresse be
rescued from hym, or yf the lord come vpon y^e
lande and wyll distrayne, and the tenaunte or
any other man for hym wyll nat suffre hym,
this is called Retrouise.

Disseisin
of rent
secke,

Assise.

Retrouise
seisi dou-
ble dama-
ges.

**The cau-
ses of dis-
seisin of
rente scr-
upce.**

Retrouise

G. ii.

Repleyn

Of rentes.

Repleuin

Encloser

**Four
causes of
disseisin
of rente
charge.**

**And two
of rente
secke.**

**One o-
ther cau-
se of dis-
seisin**

**Acte of
parliamēte.
Execu-
tours.**

Repleuin is, when the lord hath distrained and repleuin is made of the distress by writ or by playnt. Encloser is where landes or tenementes be so inclosed that þe lordes can nat come whin the landes or tenementes for to distrayne. And the chiefe cause why suche thynges so made be disseisin to the lord is for asmuche as the lord is by this waye disturbed of the meane and remedy wherby he ought to come and haue his rent, that is to wete, by distress.

And there be foure causes of disseisin of a rent charge, that is to wete, rescous, repleuin encloser, and denyer. For denyer or dental is as wel a disseisin of a rent charge as it is of rent seck. **F**ynally ye shall vnderstande, that there be two causes of disseisin of a rent seck, that is denyall and encloser.

And it semeth that there is yet another cause of disseisin of all the thre rentes aforesayde. that is to wete this, when the lord commeth to the lande holden of hym, or whē he þ hath a rent charge or a rent secke cometh to the lande to distrayne for the rent behynde, and þ tenant hearynge this, encountreth hym, and forstaketh hym the way with force and armes & manaceth him in suche sorte as he dare nat come to the grounde for to distrayne for his rent behynde for feare of dethe or mutilacyon of his membris: this is a disseisin because the partie is disturbed of his meane and lawefull remedy wherby he ought to come to his rent.

Fynally ye shall obserue and marke, that by an acte of parliamēt made in the xxxi. yere of our soverayne lord kynge Henry the vyght, it is lawfully for the executors and administrators

tours of tenantes i fee simple, tenad i fee taile tenantes for tme of life, or rent seruyce, rent charge, rent seckes, and of fee fermes, for arrerages of suche rentes as were due vnto theyr testatours i theyr lyues, eyther to distrayne for the same or at theyr election to bypunge an action of det, except in such lordshys in Wales or in the marches therof, where as the tenauntes haue bled tyme out of mynde to paye vnto every lord at his fyrst entrey into the lordshyp any summe of money for the redemption of all maner duties and penalties incurred at any time befoze theyr lordes entrey.

*Distrs.
or actions
of dette.*

Also by force of the sayd acte the hushāde which was seised in the ryght of his wyfe may after the death of his wyfe eyther distrayne or bypunge an action of det for þ arrerages of suche rentes as were due and vnpayde in her lyfe.

¶ Lyke wyse it is of hym that hath a rente for terme of another mans lyfe, yf he for terme of whose lyfe he hath the rent dyeth. yet by vertue of the sayd acte he or his executors & admors may eyther distrayne or bypunge an action of det for þ arrerages due befoze the dethe of him for terme of whose lyfe he had the rent.

¶ Howe auowryes ought to be made
of rentes and seruyce, enacted
An.xxi. Henrici. viii.

Where any landes be holden of any person by rentes, customes, or seruyces, yf the lord distrayne vpon the same landes for any suche rentes, customes, and seruyces, and repleyn therof be sued, the lordes maye

G.iii.

Of rentes.

**Seconde
deliuerāc**

**Dama-
ges.**

**Plees to
auowye.**

maye auowe oꝝ his baylyfe oꝝ seruaunt maye make conſaunce oꝝ iuſtifie the takynge vpon the ſame landes, as within his fee and ſeignorie, alledgyng in the ſayde auowye conſaunce oꝝ iuſtification the ſame landes to be holden of hym without takynge any perſon certayne to be tenant of the ſame, and without makynge any auowye, iuſtification, oꝝ conſaunce vpon any perſon certayne. And lyke wyſe vpon euery wytt ſued of the ſeconde deliuerance. And they that make any ſuche auowye, iuſtification oꝝ conſaunce, yf the ſame auowye, conſaunce oꝝ iuſtification be founde for the, oꝝ þe plaintife be nonſute oꝝ other wyſe barred, then they ſhall recouer theyr hole damages and coſtes.

¶ Also the ſayde plaintiffes & defendantes ſhal haue lyke plees and lyke ayde prayers (plees of diſclaymer onely excepte) as they myght haue had befoze the makynge of this acte.

¶ Also ſuche perſons as by the comon lawe maye ioyne to the plaintife oꝝ defendaunt in the ſayd wytt of Replegyare oꝝ ſeconde deliuerance as well without preſſe as by preſſe, ſhal trotheliſſoꝝth alſo in this caſe ioyne vnto them as well without proceſſe as by proceſſe, and haue lyke places and lyke auantages in all thynges (diſclaymer onely accept) as they myght haue by the comon lawe befoze this acte.

¶ In acte for the aſſuraunce of ſermones, made. In. xxxiii. Henrici. viii.

A leases hereafter to be made of any landes oꝝ othet hereditamentes by wyrtige in dented vnder ſeale for terme of yerres oꝝ for terme of lyfe by any perſons beyng of the

the age of .xxi. yeres haupnge any state of inheritance eyther in fee symple or in fee tayle in theyr owne ryght or in the ryght of theyr churches or wyues, or ioyntly Wh theyr wyues shall be good and effectuell agaiſt the leſſours theyr wyues heires and ſucceſſours accordynge to the eſtate cōpyled in ſuche indenture of leaſe.

¶ Prouyded that this acte ſhall neyther extend to any leaſes to be made of any landes hereditamentes beyng in the handes of any ſermour by vertue of any olde leaſe onles ſ ſame olde leaſe expyred ſurrendred or ended within one yere after the makynge of the newe leaſe, nor yet to any graunt to be made of the reuerſion of any landes or hereditamentes nor to any leaſe of ſuche landes or hereditamentes as haue nat commonly bene leiten to ferme by ſ ſpace of .xx. yeres nexte before ſuche leaſe therof made nor to any leaſe to be made without impeachement of waſte, nor to any leaſe to be made aboute the nombze of .xxi. yeres. or the lyues as ſ moſt frō the day of makynge therof. And that vpon ſuch leaſe be reſerued perche durynge the ſame, due and payeable to the leſſours theyr heires and ſucceſſours to whom ſ ſhodes ſhulde haue come after ſ deathe of the leſſours, & to whom the reuerſyon therof ſhall payne accordynge to theyr eſtates and intereſtes, ſo muche perche rent or moze, as hath ben accuſtomablye yeldynge for the ſame, within .xx. yeres nexte before ſuch leaſes, and ſ he to whom the reuerſion therof ſhall pertayne after the deathe of ſuche leſſours or theyr heires: ſhall haue ſuche lyke remedy and aduantage agaynſt the ſermours therof theyr executors and aſſignes, as the

G. iiii.

leſſour

Surrender of the
olde leaſe

Of fermours.

lessour hym selfe shalde haue had.

**The wife
shal be p-
tie to the
lease.**

¶ Provided also that if wyfe be made partye to euery suche lease as shalbe made by her husbände of any landes beyng the inheritaunce of the wyfe, and that euery such lease be made by indenture in the name of the husbände and his wyfe, and shal be seale there vnto. And that the rent be reuerled to the husbände & wyfe & to the heyres of the wyfe accordyng to her state of inheritaunce therein. And that the husbände shal in no wyse aliene discharge graunt gyue awaye the same rente serued nor any parte thereof longer then durynge the conuerture, without it be by synne leuyed by the sayde husbände and wyfe.

¶ Provided furthermoze that this acte extend nat to gyue lybertie or powet to any persons to take any mo fermes leasles or takynge of any landes or other heredytamentes, then they myght haue done befoze the makynge of this acte, nor yet extend to gyue any lyberty to any persone or bycare of any church or bycarage for to make any lease or graunte of any theyr messuages landes, tenementes, rythes profytes, or heredytamentes belongynge to thyr churches or bycarages otherwyle then they myght haue done befoze the makynge hereof. Anno. xxv. Henrici. viii.

**What
graunt by
a corpo-
ration is
good.**

¶ It is furthermoze enacted that the graunte lease, gyfte or election of the gouernour or ruler of any hospisall, college, deanry or other corporation with thassent of the moze parte of suche of the same as haue voyce therunto, shal be good and effectuell, any rule or statute made by any foundour to the contrary natwithstandynge.

of

C Of falsifpence of recoveryes by fermours
inacted. Anno. xxi. Henrici. viii.

A fermours or lessees for terme of yeres
may falsifye for theyr terme onely, re-
coveryes had by sayned tytes as well
as a ternaunt of freholde. And the same, fer-
mours theyr executoures and assynges shall en-
ioye theyr sayd fermes accordyng to theyr leas-
ses agaynste suche recoveryes euen as yf none
such had be suffered. In whiche case neuerthe-
les the recouerer, after such recovery had, shall
haue lyke remedy agaynst þe fermers by auow-
re, or action of det for rentes and seruyces re-
serued vpon the same lessees beyng due afore
the same recoveryes, and lyke actions for wast
done after the same recoveryes, as the lessours
myght haue had yf no suche recovery had be
had. Furthermoze no statut estaple, statut mar-
chaunt, nor execution by Elegit shalbe auoided
by any suche sayned recovery, but lyke remedy
shall be had to auorde and falsifye the sayde re-
coveryes, as is ordeyned for þe fermour or lesse
for terme of yeres.

Quowp
or action
of detts.

C Of tythes and howe they shalbe
recovered, inacted. An. xxxiii.

Henrici. viii.



A persons shall truly paye theyr
tythes and offrynges accordyng
to the lawefull customes & vslages
of parishes & places where suche
tythes or dutyes be due. And yf
they do wylfully with holde any
parcell of them: the partye whether he be ec-
clesiasticall

G. b.

defiait

Of tythes.

ecclesiasticall or laye that shulde have them, maye conuent suche persons before the ordinarie his commissary or other competent minisre or Judge of the place where suche wronge shalbe done accordynge to the ecclesiasticall lawes. And in euerye suche cause of sute the same ordinarie or iudge haupyng the partyes or theyr procurators before hym shall procede to þe determination therof ordinarie or summarie accordynge to the course of the sayde lawes, & there vpon shall gyue sentence accordynge.

Duttye

And in case any of the partyes for any matter concernynge that sute, do appele from the sentence and dyffinitive iudgemente of the sayde iudge, then the same iudge forthwith vpon appellation made, shall adyuge to the other partie the reasonable costes of his sute, and shall compell the same partie appellāt to pay þe same by compulsory pzoesse censure of the sayde lawes takynge sverte of the other partie to whome suche costes shalbe adyuged to resioze the same to the appellant, yf afterwarde, the principall cause of that sute of appeale shalbe adiudged agaynst hym. And so euery iudge ecclesiasticall shall adyuge costes to the other partye vpon euery appeale to be made in any sute or cause of subtraction or detention of any tythes or offerings or in any other sute to be made concernynge the dutye of suche tythes or offerings. And yf any persons after suche sentence gyuen agaynst them shall obstinately refuse to paye theyr tythes or duties or suche somes of money so adyuged wherin they be condemned, then two Justices of the peace of the same Wyte, wherof one to be of the quorum, shall vpon certypse

**Justices
of peace.**

certificat or complaynte to them made in wyppynge by the iudge that gaue the sentēce, cause them to be attached and committed to the next Gaile, there to remayne without bayle or maynpyse, tyll they shall haue founde sufficient sureties to be bounde by recognysance or other wyse befoze the same iustices to the kynges vse for the performaunce of the sayde iudgemente.

¶ Prouyded, that no persone shalbe sued or otherwyse compelled to pay any tythes for any landes tenementes or hereditamentes whiche by the lawes of this realme are dyscharged or nat chargeable wth p^y paymēt of any such tythes.

¶ Also this acte shall in no wyse bynde the inhabytantes of London and subarbes of p^y same to pay theyr tythes and offerynge within the same cytye and subarbes otherwyse then they shulde haue done befoze,

¶ Furthermoze if any hauinge an inheritance freholde terme or intrest in any personage bycage porcion pension tythes oblations or other ecclesiasticall profyte made or to be made temporal or admitted to be in tēporal hādes by the lawes or statutes of this realme, be disseised or otherwyse put from the same by any other person claymyng to haue intrest therein: the persō so disseised or wrongfully put frome his sayde ryght or possession his heyres, wyfe, and other to whom such wronge shalbe done, maye haue remedy in the kynges temporal courtes, as the case shal requyre for p^y recovery thcrof by wyttes original of p^yrec. q^{uod} reddat, ass. of nouel disseison, Mordant. Quod ei deforciat, wyttes of dower, or other wyttes original to be graunted in the chauncery of every suche personage bycage

Of tythes.

ecclesiasticall or laye that shalde have them, maye conuenc such persons before the ordinarie his commissary or other competent minisre or Judge of the place wheree suche wronge shalbe done accordinge to the ecclesiasticall lawes. And in euerye suche cause of sute the same ordinarie or iudge hauynge the parties or theyr procuratours before hym. Shall procede to þe determination therof ordinarielye or summarie accor dyng to the course of the sayde lawes, & there vpon shall gyue sentence accordinge.

Dutye And in case any of the parties for any matter concernynge that sute, do appele from the sentence and dyffinitive iudgemente of the sayde iudge, then the same iudge forthwith vpon appellacion made, shall adiuage to the other partie the reasonable costes of his sute, and shall compell the same partie appellāt to pay þe same by compulsory pzoecesse censure of the sayde lawes takynge suerte of the other partie to whome suche costes shalbe adiuged to restore the same to the appellant, yf afterwarde, the principall cause of that sute of appeale shalbe adiudged agaynste hym. And so euery iudge ecclesiasticall shall adiuage costes to the other partie vpon euery appeale to be made in any sute or cause of subtraction or detention of any tythes or offer ynges or in any other sute to be made concernynge the dutye of suche tythes or offer ynges. And yf any persons after suche sentence gyuen agaynste them shall obstinately refuse to paye theyr tythes or duties or suche somes of money so adiuged wherein they be condemned, then **Iustices of peacc.** two Iustices of the peace of the same Wyte, wherof one to be of the quorum, shall vpon certifye

certificat or complaynte to them made in wyrtynge by the iudge that gaue the sentēce, cause them to be attached and committed to the next Gaile, there to remayne without bayle or maynpysse, tyll they shall haue founde sufficient sureties to be bounde by recognysaunce or other wyse befoze the same iustices to the kynges vse for the performaunce of the sayde iudgemente.

¶ Prouyded, that no persone shalbe sued or otherwyse compelled to pay any tythes for any landes tenementes or hereditamentes whiche by the lawes of this realme are dyscharged or nat chargeable wth p^{aymēt} of any such tythes.

¶ Also this acte shall in no wyse bynde the inhabytantes of London and subarbes of p^{ar} same to pay theyr tythes and offerynges within the same cytye and subarbes otherwyse then they shulde haue done befoze,

¶ Furthermoze if any hauinge an inheritance freholde terme or interest in any personage bycarrage porcion pension tythes oblatiōs or other ecclesiasticall profyte made or to be made temporall or admitted to be in tēporal hādes by the lawes or statutes of this realme, be disseised or otherwyse put from the same by any other person claymyng to haue interest therein: the persō so disseised or wrongfully put frome his sayde ryght or possession his heyres, wyfe, and other to whom such wronge shalbe done, maye haue remedy in the kynges temporall courtes, as the case shal requyre for p^{re} recovery thereof by wyrttes original of p^{re}cedat, ass. of nouel disseison, Moxdant. Quod ei deforciat, wyrttes of dower, or other wyrttes originall to be graūted in the chauncery of every suche personage bycarrage

Of mortuaries.

becharge, portion, pention, or other profite ecclesiasticall accordyng to the nature of the sute therof. And wyttes of couenāt and other wyttis for synes to be leuped and al other assuāces to be made of any such personage or profite ecclesiasticall shalbe deupsed and graunted there, lyke as hath ben vsed for synes to be leuped & assurance to be had of lādes or other hereditamentes, and all iugementes gyuen vpon suche wyttes originall graūtes for any the pmisses and all synes leuped and knoleged in any of the kynges sayd courtes therof, shalbe of lyke force as iugement gyuen and synes leuped of landes tenementes and heredytamentes.

Of mortuaries, enacted.

An. xxi. h. viii.

NO person spirituall theȝ sermons nor baylyffes shal cal any person befoze any iudge spirytuall for the recovery of any Mortuaries moze then is hereafter mencioned vpon payne to forsayte for every tyme so much in value as they shall take aboue the sūme here lymyted & ouer p. x. s. to the payte greued, for whiche he shall haue an accion of det by wytte byll or information, wherein no wager of lawe eslopie nor pteccion shalbe allowed. Fyyste no mortuarie shalbe taken of anye whiche at hys death hath in mouable goodes vnder the value of .x. marke. Also no Mortuarie shall be taken but onely where Mortuaries haue bene vsed to be payde, and there after the foyme hereafter mencyned. For in no mo places but one that is to wyte, there where is most abydyng is and there but one. For no persone shall take for

for a Mortuaries of any persons beyng at hys death at the value of .x. markes above hys dettes payde & vnder .xxx. li. above .lii. s. liii. d. And of the value of .xxx. li. and vnder xl. nat above. vi. s. viii. d. And of the value of .xl. or above to any summe what so euer it be, nat above .x. s. Also no Mortuaries shall be asked nor payde for any womā couert barō, or chyld or any pld nat keepyng house, or for any wayfaryng mā but the Mortuaries of suche wayfaryng men be answerable in that place where they had theyr most dwellynge at the tyme of theyr death.

¶ Neuertheles such spiritual pson may take any thynge whiche shall be disposed or bequeythed to hym or to the hygh aulter of þ church. Also nothynge shall be taken for Mortuaries in Wales nor the marches of þ same, nor in Ca-lys or Berwyke or the marches of the same, but onely in suche places of the same where Mortuaries have bene accustomed to be payde and there but onely after the fo:mr above specified, Prouyded that þ Bysshops of Banger, Ely, Eborake, Saynt Dauides and Saynt Asse and the archdeken of Chelster may take suche mortuaries of the pzeekes within theyr diocesses and iurisdiccions, as heretofore have ben accustomed. Prouyded also, that in suche places where mortuaries have ben accustomed to be taken of lesse value none shalbe compelled to paye any other Mortuaries or more for any Mortuaries then hath bene accustomed, nor no Mortuaries there shalbe demaunded of any person except by this acte vpon payne afoze lymyted.

¶ Of discontinuance.

It is

Of discōtynuaunce.



It is called a discōtynuaunce by the lawes of Englaunde, whē he that hath the possession of landes or tenementes for the tyme presente and yet nat has upghe the fee symple in hym selfe nor in his owne ryghte onely, maketh an alpenacyon of the same to another, by reason wherof, he that shulde haue them after hym and which then hath ryght vnto them can nat entre, but it is dyuen to his remedy by way of actiō, in such wyse that þe sayd landes be nat utterly misted & gone from such person or persons as haue ryght vnto them, but be alonely discontinued for a tyme, tyll the person which after the death of such discōtynuer hath the ryghte vnto thē, do recontynue and byngne them home agayne not by entry but by sute and way of action. As for example, Yf tēnaunt in taylor of certayne lādes doth infeeſe another in the same, in fee symple or fee taylor and hath issue and dyeth, his issue can nat entre in to the landes, though he hath tyle and ryght vnto them, but is put to his action, whiche is called a forme done in the discōdye. And yf such tēnaunt in taylor which maketh suche a feoffement, hath no issue at tyme of his death, it is yet neuertheles a discōtynuaunce to hym which is neyther in the reuerſyon or in the remayndye so that neither the one nor thother cā entre, but he dyuen the action, be in the reuerſyone to his forme done in the reuerter and he in the remayndye to his forme done in the remayndye.

In lyke maner yf a byshop doth aliene lādes whiche be parcel of his byshoppych, & dyeth

forme done
ne in the
dicōdye.

forme done
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Of discontynuaunce .

his wyfe durynge the couerture betwene them
shalbe any discontynuaunce therof oꝛ be pꝛei-
diciall oꝛ hurtfull to þe sayde wyfe oꝛ to her hey-
res, oꝛ to suche as shal haue ryght tytyle oꝛ in-
trest to the same by the death of such wyfe but
that the same wyfe and her heyres, and suche
other to whom suche ryght shal appertayne af-
ter her deceasse may than lawfully enter into all
suche landes & tenementes accoꝛdynge to theyr
ryghtes and tytles therin.

¶ Howe recoveryes by collusion agaynste te-
nauntes foꝛ terme of lyfe is no disconti-
nuance, enacted. An. xxiij. h. viij.



Here diuerse persons sealed of
landes and hereditamentes, as
tenauntes by the curtesy of En-
glande, oꝛ otherwyse onely foꝛ
terme of lyfe oꝛ lyues haue here-
tofoze suffered other persons by
agrement oꝛ couyn betwene the
had, to recouer the same agaynste them in the
kynges court by reason wherof, they to whom
the reuerlyon oꝛ remaindre therof hathe belon-
ged, haue after the deathes of suche tenauntes
bene dypuen to theyr actions foꝛ the recouty-
nuance and obteynynge of the sayde lādes and
tenementes so recovered, and some tyme haue
bene clearly disherited of the same, it is enacted
that all suche recoveryes hereafter to be had by
agrement of the partye oꝛ be couyn, agaynste
any such particuler tenaunt of landes oꝛ here-
ditamentes, wherof he is oꝛ hereafter shalbe se-
led, as tenaunt by the curtesy of Englande, es-
naunt in tayle after possibilitie of issue extincte.

oꝛ

Of Wrongfull disseisin. Fo. lviij.

or otherwise for terme of life, that shēd beforē
as agaynst suche persons to whom the reuerſion
or remaindre shall thā appertayne & agaynst
theyr heyres and ſucceſſours, be clerely voyde.

¶ Provided þ̄ this acte extēde nat to any per-
ſone that shall by good t̄tell recouer any heres
ditamētes without fraude or couyn agaynst
any ſuch particuler tenaūte by reaſon of any for-
mer ryght or t̄tell, nor yet to auoyde any reco-
uer to be had agaynst any ſuche particuler tes-
naunt by chaſſent and agrement of thoſe in þ̄ re-
uerſion or remaindre, and ſo þ̄ ſuch aſſent & agre-
ment do appeare of recoyde in the kynges court.

¶ Howe wrongfull diſſeiſin is no diſcent in
the lawe, inacted. Anno. xxiiij. Henrici
viii. Capitulo. xxiii.

Where diuerſe perſons haue by ſtrength
and without t̄tle entered into lādes
and tenementes and wrongfully dyſ-
ſeiſed & diſpoſſeſſed the ryghtfull owners and
poſſeſſours therof, & ſo beyng ſeaſed by dyſſe-
ſiſen haue therof dyed ſeaſed by reaſone of
whiche dyeng ſeiſed, the parties þ̄ were ſo diſ-
ſeiſed and diſpoſſeſſed or ſuch other perſons as
before ſuche diſcent myght haue lawefully en-
tered into the ſayd landes & tenementes be theres
by clerely excluded of theyr entre into the ſame
and put to theyr action for theyr remedy & re-
couery therein: it is inacted, þ̄ the dyeng ſeiſed
hereafter of any ſuche diſſeiſour haupze no
ryght or t̄tell therein, shall nat be dained any
ſuche diſcent in þ̄ lawe to take away the entre
of ſuche perſons or theyr heyres whiche at the
tyme of the ſame diſcent had good title of entre
into

If a disse^{or} have
peaceable poss^{ess}
in law for
years after
the disseisin
and by seise
not claime
it shall be his.

Of prescription.

into the same. Except þ such disseisour hath
had the peaceable possession of the landes or res
gements wherof he shall so dye sealed by the
space of tye yeares next after the disseisin by
hym committed without entre or cōpnuall clays
me by such as haue lawfull tye therin: o.

¶ The limitation of prescription is
acted. In xxii. §. viii.

NO pson shall sue or mainteyne any wyte
of ryght, or make any tye or clayme
to any landes tenemētes, rentes, annu-
ties, commons penslons, portions, coprodes,
or other hereditamētes of the possession of his
auncellour or predecessour, & declare any fur-
ther seisin or possession of his auncellour or pre-
decessor but onely of the seisin or possession of
his auncellour or predecessour, whiche hath ben
seised of the same within. xl. yerres nexte before
the feast of the same wyte, or nexte before the
sayde tye or clayme, so to be sued.

Limitatō
of. xl. yerres.

¶ Also none shall sue or mainteyne any assyle
of Mortuance, consage ayle, wyte of en-
tre vpon disseysyn done to any his auncellours
or predecessours, or any other action possessarie
vpon the possession of any his auncellours or
predecessours, for lādes or hereditamētes of
further seisin or possession of the, but only his
seisin or possession whiche was seyled therof
within fyfty yerres nexte before the tye of the
originall of the same wyte. And none shall mai-
nteyne action for landes or other hereditamē-
tes vpon his owne seisin or possession therein, a-
boue. xxx. yerres nexte before the tye of the ori-
ginall of the same wyte.

Limita-
tion of. l,
yerres.
Limita-
tio of. xxx
yerres,

Item

Of prescreption. Fo. lviij.

Item none shall make any auowrye or
conplaunce for any rent, sute, or seruyce, and als
ledge any seisin of þ same in his auowrye or co-
nplaunce in possession of his auncellours or prede-
cessours, or in his owne possession, or in the
possession of any other whose estate he shall claime
to haue, aboue fyfetye yeres nexte before the
makinge of the sayde auowrye or conplaunce.

Knowyn

Moreover all formdones in reuenter, formdo-
nes in remainder, and Scire facias vpon fines
of landes or other hereditamentes to be sued,
shalbe taken within fyfetye yeres nexte after the
tytle of actiō faile. And if any do sue any of the
sayd actiōs or wryttes for lādes or other heredi-
tamentes or make any auowrye conlaunce pre-
scripcion or claime for any rente, sulte seruyce,
or other hereditamentes, and can nat proue þ
he or his auncellours or predecessours were in
actuall possession or seasion therein at any tyme
within the yere before limited, if the same be
trauerced or denied be the partye playntiffe des-
maundant or auouant or by the partye tenaunt
or defendant, he and his hepyes shal from hence
forth be vterly barred for euer of euery þ sayd
wryttes, actions, auowries conplaunce prescrip-
tion, tytle, & claime hereaft to be sued or made
for the same landes or other the premises, for
which such action wryt auowry, conlaunce, ty-
tle or claime hereafter shalbe sued or made.

Barred.

I Provided, that all persons whiche now
haue any of þ sayd action, wryttes, auowries
Scire facias, conlaunce, prescripcion, tytle, or
claime dependynge, or that hereafter shal sewe
or bypynge any of the sayde wryttes, or actions,
or make any of þ sayd auowries, conplaunces,

Of prescription.

whē this
stat. shall
take effect.

prescription, titles, or claymes at any tyme be-
foze the feast of s^t Michael of our Lozde which
shalbe in the yere of our Lozde a thousande fyue
hundred forty and fyve, shal alledge the season
of theyr aunccestours or pcedecessours, or theyr
owne possession & season, & also haue all other
lyke auantage in the same, wyttes, actions,
auowyes, conisances, prescriptions, & claymes
as they myght haue had befoze the making of
this statute. Wherby also, that yf any person
be now within the age of .xxi. yeres, or couerte
baron, or in prison, or out of this realme, nowe
hauynge cause to bynne any of the sayd wytto-
tes or actions, or to make any auowyes, con-
sances, prescription or claymes it shalbe law-
full to suche person, to sue or bynne any of the
sayd actions, or to make any of the sayd auow-
yes, conisances, titles or claymes at any tyme
within fyve yeres nexte after such person nowe
beynge within age, shal accomplyshe the age of
xxi. yeres. or now beynge couerte baron, shal-
be sole. or now beynge in prison, shalbe at theyr
lybestye, or now beynge out of this realme, shal
come & be within this realme. And that every
such persones in theyr sayd actions auowyes
conisances titles or claymes to be made sued or
comenced within the sayd fyve yeres, shal al-
ledge the season of theyr aunccestours or pced-
ecessours, or of theyr owne possession, or of the
possession of those whose estate they shal then
clayme. And also within the same fyve yeres
shall haue lyke aduantage in the same, as they
myght haue had befoze s^t making of this acte
Wherby also, that yf the sayd person now be-
ynge within age, or couert baron, in prison or

and

out of this realme, do dye within age, or beinge covert, or in prison, or out of this realme or de- cease within .vi. yerres next after they shall accā plyfthe theyr full age, or shalbe at large within this realme, or shall become sole, & no determina- tion or iugement had of suche tytle actions or ryghtes so to them accrewed, then the nexte heire of suche persones shall enioye lyke anas- tage to sue demaunde aduowe declare or make theyr sayd tytles, claymes or prescriptions wh- in fyre yerres nexte after the dethe of suche per- sones, as the same infantie after his full age, or the sayde woman covert after the dethe of her husbande, or the same persone beinge oute of this realme after his repayre or comynge into the same, or the sayde persone imprysoned after his enlargement and comynge oute of prison, myght haue hadde within .vi. yerres then nexte ensewynge by force of the prouision laste before reherfed.

¶ Prouided also, that yf any persones before the sayde feast of the Ascencion sue any of the sayde actions or make any aduowe tytle or clayme, and the same happen by the deathe of any 2 partyes therunto, to be abated before iu- gemente or determination therof had then the sayd persons beinge demaundantes, or aduowe- antes, or makynge any suche conplaiunce, pre- scription, tytle, or clayme beinge then on lyue, and yf nat then theyr nexte heyres, maye com- mence theyr action and make theyr aduowe- tyte conplaiunce or clayme vpon the same matet within one yere nexte after such case abated, & shall haue lyke aduantage to sue demaunde & aduowe declare or make theyr sayd tytle claymes

Of fines.

of prescriptions **W**hin the sayde one yere, as the demaundantes in suche wyse of sute abated, or as such as byd anowe or make consaunce, tytle clayme or prescription, myght haue entoyed in the sayde former action or sute.

Attaynt.
byd false
verdit.

If groupedd furthermoze, that yf any false verdit hereafter be gyuen in any of the sayde actions, lutes, anowyes, prescriptions, tytles, or claymes the che party greued maye haue his attaynt vpon euery suche verdit, & þe playntiffe in the same attaynt byd iudgemēt for hi gyuen shall haue lyke recouery, execucion and other aduantage as heretofore hath ben vled.

Of fynes.

Fino qd. cont.
hous. luis.

Fynes haue theyr name, by cause they make a fynall ende and determinatiō of all lutes streffes and debates betwene mē. For the due leuynge wherof. It was enacted i the xiii yere of kynge Henry the .viij. that they must be solemny before the iustices of the comon place rede & proclaimed the same terme and the termes nexte folowynge the ingrossment, at whiche tyme al the ptees must cease, And suche fynes shalbe a suffycent barre and discharge agaynst all psons, launye women þe couert barō if such womē be nat ppyue to þe same fine, or suche as be win age, i ppyd out of the realme, or out of theyr rpyght myndes. But these fines shall nat cōclude ne bar al straungers whch haue right to stre or to haue action, yf they come win, v. yeres aft suche proclamations made

5 yeres after
proclamatio
made

made or (in case the cause of action falleth vnto
the after the fyne so duely leuyed) yf they come
and commence thei action and sute within .v.
peres next after such cause of action to them ac-
crued. And they may sue agaynst the takers of
the poyntes. But yf they that haue ryght
thereto be within age, in prison couerte baron,
out of the realme or nat in thei ryght memory
then thei title or entre shalbe sau'd vnto them
till they be of full age, out of prison, dyscouered
and sole within the realme or of ryght mynde.
and then within fyue peres after thei action
or entre muke be sued or made with effecte.

¶ Also by the sayd statute it shalbe a good ple
for all straungers to saue, that they sh were par-
ties to the fine nor none other to thei vse, had
any thynge in the tenementes or landes at the
tyme of the leuyng of the fyne.

¶ Furthermoze in p. xxii. peres of this kynges
for the duoydng of certayne doubtes and am-
biguities, it was enacted, that all fines as well
heretofore leuyed, as hereafter to be leuyed ac-
cordinge to the sayde statute of Henry the. vii.
by any person of the full age of. xxi. peres, of
any landes or other hereditamentes beyng, be-
fore the fine leuyed, in any wyse tyled vnto hi
or to any of his aunccestours in possession reuer-
sion remaindre or in vse shalbe immediatly af-
ter the same fine leuyed ingrossed a proclama-
tions made a sufficient barre and dyscharge for
ever as well agaynst hym and his heires clay-
myng the same onely by force of any liche en-
tyle as agaynst all other to thei vse, so that
the same fines be nat leuyed by any woman at
or the deth of her husbände, contrary to p. sta-

v years after
cause of action

Barre.

Of fines.

Anno .xl.
H. viii.

An. liii.
Hen. vii.

tute made the xl. yere of Henry the seventh of
landes and tenementes of thynheritance or pur
chase of her husbande or of any of his aunccestors
geuen to her in dower, for terme of lyfe, or in
taylor in vse or in possession. Excepted also all
fynes leuyed or to be leuyed of any such landes
or hereditamentes as owners thereof by any
special acte of parliament made syth the sayde
fourth yere of Henry the. vii. be reitrapned fro
makynge any alienations discontinuances or
other alterations of the same. Also of such la
des as be now in lute and variance in any of
hynge's courtes, or whereof any eydences be
nowe in demaunde in the chancery, or whiche be
all redye recovered. Excepted also fines leuyed
or to be leuyed by any person, of landes or tene
mentes graunted to hym or to his aunccestours
in taylor epyther by the hynge's letters patentes
or by vertue of any acte of plyament, wherof
reuerston is in the hynge. And confirmed in the
xxxiij. yere of Henry the. viii.

¶ Of testaments or last wylles.

*Distinction
Test. manis
testatio.*



wyrtten
testamēt.

Testas
mēt nūcu
patius.

Testamentum in latyn is as
much to saye as mentis testa
tio that is a declaratiō or wit
nesynge of a mans mynde.
And there be two sortes of te
stamentes. The one is called te
stamentum scriptum, that is
a wyrtten testaments, or a lastte wyl by wyrt
synge, and the other is called testamentum nū
cupatiuum a testament nuncupatiue, whiche is
whē a man doth expresse by mouth his last wyl
and testamēt withoute wyrtynge, by calling be
foze hym certayne of his neyghbours in whose
presence

presence he dothe signifie by wordes his laste mynde and wpll. And this for most part mē vse to do when for fere of sodennes of dethe, they dare nat abyde the wytyngne of theyr wpl. And this wpll (onlesse it be in certayne cases) is as stronge and as sur, as is a testament or laste wpll put in wytyngne and sealed with the seale of the testatour.

¶ Also though a testament by wytyngne be nat sealed with the seale of the testatour, yet is the testament good and effectuell in the lawe.

¶ And ye shall also marke, that where a man maketh one his testament and wpll and after wards maketh another wpll by wordes yf his last wpll be pured before þe ordinary & by hym put in wytyngne and insealed with his seale, such last wpl shall auoyde the fyrst wpl, onles it be in special cases, and so alway the latter wpl and testament shall auoyde the former.

¶ Finally by an acte made the .xxi. yere of kynge Henry the eyght, it was ordeyned that where part of therecutours named in the testament wherein any landes or tenementes be willed to be solde by them, refuseth to take vpon the administration, and the residue do take the charge and administration vpon them, in this case all bargaynes and sales in the sayde landes made onely by those executors þe take the administration of the testaments vpon them, shalbe as good and effectuell, as yf al the residue of the executors so refusynge had ioynd in the makinge of the bargayne and sale.

Executors.

¶ The difference betweene executors and administratours.

¶.

(Executors)

The difference betwene.



Executours is when a man maketh his testament & laste wyll and therein namerh the person whiche shall execute his testament, then he that is so named is his executour, & such an executour shall haue an action agaynst euery deitour of his testatour. And yf h executours haue assertes that is to saye sufficent in theyr handes then shall euery one to whom h testatour was in det haue an action agaynst the executours yf he haue an oblygation oꝝ especially to shewe. But in euery case where the testatour myght wage his lawe, there no action lyeth agaynst the executour.

**Assertes i
the han-
des of exe-
cutour.**

**Adminis-
tratur**

Administratur is he, to whō the ordinary comytteth the administracion & bestowynge of the goodes of a ded man for defaute of an executour. And action shall lye agaynst hym and for hym as for an executour, & he shall be charged to the value of h goodes of the ded and no further, yf it be nat by his false plee, oꝝ for that he hath wasted the goodes of the ded. But yf the administratours dye his executours be nat administratours, but it behoueth h ordinary to comyt a newe administracion. Howe be it yf a straunger I meane hym that is neyther executour named in the testament and laste wyll nor yet administratur appoynted by the ordynary wyll take the goodes of the ded and minister of his owne hed and mynde without lawefull auctorite, this person shall be charged and sued as an executour, and nat as administratur in an action whiche is brought agaynst hi by any creditour. But yf the ordynary make a letter

**Execu-
tour of
his owne
wronge.**

Of testaments. Fo. lxii.

ad collendū bona de fructi, he that hath suche a letter is nat administratour, but the action lyeth in this case agaynst the ordynary, as well as yf he toke the goodes by his owne hande, or by the hande of any other his seruaunt by any other commaundement.

A letter
ad collen-
dendū.

In acte for probate of testamētes.
made. An. xxi. D. viii.



No thyng shalbe taken by any haupnge auctorite to take probacion insinuacion or approbation of any testament where the goodes of the testatour do nat amounte aboue the value of **l. s.** except to þe scribe for wytyng therof. vi. d. And for the comission of ministracion of the goodes of any dyeng intestate nat beyng lyhemysle aboue **l. s.** vi. d. Also none haupnge power to take probate of testaments shal refuse to approue testamētes beyng lawfully offered vnto them in wytyng with ware thereto affixed redy to be sealed, so that they be lawfully proued befoze the same ordynary to be true. And when the goodes of the testatour do amounte aboue an **l. s.** and nat excede. xl. li. none shal take for the probacion registryng sealynge and wytyng of any suche testament as boue. ii. s. vi. d. wherof to be to them that haue auctorite to take the probacion. ii. s. vi. d. and the other. xii. d. to the scribe for registryng.
And where the goodes amounte aboue. xl. li. that ouer. v. s. to be takē, wherof to be to them that haue auctorite to take the probacion. ii. s. and. vi. d. and thother. ii. s. vi. d. to the scribe for

Of testaments.

for the registryng, or els yf he refuse that. ii. s. vi. d. the he to haue for euery. x. lines euery lyne conteynyng in length. x. pches. i. d.

¶ And they that haue auctoritie as is aboue sayde shall appoynte insinuate scale and register the tenementes and deliuer them sealed wth the scale of theyr offyce to the executours for the same aboue sayd and p^r with conuenient speede withoure any frustrato^ry delay.

¶ And yf any person dye intestate or the executors refuse to p^roue the testament, than they hauyng auctoritie as is aboue sayde, shal graunte the administracion of the goodes to the wydowe of the persone deceased or to the next of kynne or to bothe after theyr discrecion, takyng suretye of the for true administraciō of the goodes and dettes, which they shall be so auctorised to minister. And where one or dyuers claime the administracion as nexte of kyn whiche be equal in degre of kynned, or where any one p^rson desireth the administraciō as next of kyn wher in dede diuers persones be in equaltye of kynned, then in any suche case the ordynary shalbe at lybertie to take one or mo makynge request. And where diuers require the administracion, or where but one or mo of them & nat al beynge in lyke degre, make request than the ordynary shal admit the wydowe and hym or them onely makynge request or any of them, takynge nothyng for the same where the person deceased dyed nat worth. l. s. And yf he dyed worth. l. s. and nat aboue. xl. li. than. ii. s. vi. d. onely to be taken. And the executour or administratours callynge to hym the dettours two at the least of such persons to whom any legacye was made

and

Quere.

and yf they refuse than. ii. nexte of kyn to þ person deceased and in theire defaultes. ii. other honest persons shall by theyr discretions make a true Inuento true Inuento of all the goodes, & of whiche persons swerynge befoze the byshop or his officers to be true, shall deliuer þ one part therof vnto the, & þ other kepe with hym selfe And none hauinge auctoritie to take probate of testaments vpon payne contayned in thys statute shall refuse to take any suche Inuento presented or tendered to them.

¶ Provided, yf any person shall dispose or wyll by his testament any landes or hereditaments to be solde, that the money or profytes of the same be accompted for goodes or catels. And they hauinge the auctoritie aboue sayde vpon the deliuerie of the seale and signe of the testatour shall cause þ same to be defaced and incontinent shall deliuer it to the executor without any clayme, and yf any requyre a copy of þ testament and Inuento, thā they hauinge auctoritie or theyr ministers, shall without delaye deliuer the a copy takyng therfoze and for the registryng of the same as befoze or els for every ten lynes. i. d.

¶ Provided, that where they hauinge auctoritie as is abouesayde haue vled to take lesse for þ probate of testaments or other thynges concernyng þ same thā is here specified, they shall take as they dyd befoze this acte.

¶ Nowe yf any that haue auctoritie to take probate of testaments or theyr ministers do attempte agaynst this acte, they shall forfeit for every tyme to the party greued as much money as they shall take contrary to this acte. And ouer that

Of testaments.

that. x. li. the one half. to the kynge the other to the party grieved, that wylle sue by action of debt byll information or otherwylle in any of þe kynges courttes. wherin no esoyne protection nor wager of lawe shalbe allowed. And euery of the shalbe charged for him selfe and for none other. ¶ Wherby, that euery one hauynge aucthoritie aboute sayde, may cal befoze the euery person named executour, to the intent to pꝛoue and refuse the testament and to bynne in intentaries and to do euery other thyng concernynge the same, as they myght befoze this acte, so þe neyther they nor theyr ministers shall take as boue the fees limited by this acte.

¶ Howe landes and tenementes maye be by testamēt or otherwylle disposed inacted. In xxxii. h. viii.

Euery person hauynge landes or other hereditamentes holden in socage, or of the nature, and nat hauynge any landes or hereditamentes holden of the kyng by knyghthes seruyce, or socage tenure in chiefe, or of the nature of socage tenure: i chiefe, nor yet of any other pson by knyghthes seruyce: maye gyue, dispose, and deuyse, as well by testament in wytyng, as otherwylle by any acte lawfully executed in his lyfe, all his sayde landes or hereditamentes or any of them.

¶ And euery person hauynge landes or other hereditamentes holden of the kyng in socage or of the nature of socage tenure in chiefe, and hauynge also any other landes or hereditamentes holden of any other persons in socage or in
the

Of testaments. Fo. xliiij.

the nature of socage tenure, and nat haupnge any hereditamētes holden of ꝑ kyngē oꝝ of any other by knyghtes seruyce may from the sayde tyme gyue and deuyse al well by testaments in wytyng, as otherwylse by any acte lawfully executed in his lyfe, all and euery of them at his pleasure. Hauynge to the kyngē all his ryght of pymer season and relieves, and also al other ryghtes and duties for tenures in socage oꝝ of the nature of socage tenure in chiefe, as hertofore hath bene accustomed, the same to be take and sued out of the kynges handes by the pson to whom any such landes shalbe disposed oꝝ deuyed in lyke maner as hath bene vsed by any heyre oꝝ heyres befoze the makynge of this statute. And sauynge & reseruyng also spyes for alienations of suche laudes & hereditamentes holdē of the kyngē in socage oꝝ the nature of socage tenure in chiefe, wherof shalbe any alteration of freholde oꝝ inherytaunce made by wyll oꝝ otherwylse as is aforesayde.

Pymer
season
relieves.

¶ Item all persons haupnge landes oꝝ other hereditamentes of estate of inheritance holden of the kyngē in chiefe by knyghtes seruyce oꝝ of the nature of knyghtes seruyce in chiefe maye gyue wyl oꝝ assigne two parties of the same in thre partes to be deuyded oꝝ els as muche thre of as shal amount to the verly value of two partes of the same in thre partes to be deuyded in certayntye and by special deuisions as it may be knowē i seueraltie. for ꝑ auāsemēt of his wyfe ꝑfermēt of his childꝛē, & paymēt of his dett, oꝝ otherwylse at his pleasure. Hauig to the kyngē as well the wardeshipp and pymer season of as much as shal amount to the clere verly value of the

Of testaments.

the thyrde parth erof without diminution doo
 wter, fraude, couein, charge oꝝ obtydgemēt theer
 of, as also all fines for alienations of all suche
 landes holden of him by knyghtes seruyce in
 chiefe wherof shall be any alteration of fees
 holde oꝝ of heritaunce made by wil oꝝ otherwysse
 ¶ And euery person haupnge landes oꝝ tene-
 mentes of estate of inheritaunce holden of the
 kynge in chiefe by knyghtes seruice, and other
 landes holden of him oꝝ of any other by knygh-
 tes seruice oꝝ otherwysse maye geue oꝝ assigne
 by his testament oꝝ otherwysse as is aforesayde
 two partes therof in thye partes to be deuyled
 oꝝ els as much therof as shall extēde to the perly
 value of two partes oꝝ be deuyled in certeyn
 haupnge to the kynge aswell the wardeshyppe
 and primer season of as much, as shall amount
 to the perly value of the thyrde parte, without
 diminution. &c. As also all fynes for alienatiōs
 as is aboue sayde.

Fines for
 alienati-
 ons.

¶ Item euery persone holdynge landes oꝝ te-
 nemētes only of any other than of the kynge by
 knyghtes seruyce and other lādes and tencmē-
 tes in socage oꝝ of the nature of socage tenure
 may geue dispose oꝝ assure by testamente oꝝ o-
 therwysse two partes therof holden by knygh-
 tseruyce oꝝ as much as shall amount to the full
 perly value of two partes. And also all p lādes
 and tencmentes holden by socage oꝝ of the na-
 ture of socage tenure at his pleasure. haupnge
 to the loyde of the landes and tencmentes hol-
 den by knyghtes seruyce for his wardeshyp as
 much therof as shall amount to p clere perly va-
 lue of the thyrde parte without diminution. &c.
 ¶ And euery pson holdynge onely of p kynge
 by

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by knyghtes seruyce but nat in chiefe, or holdyng of the kynge by knyghtly seruyce, and nat in chiefe, and also other hereditamentes of others by knyghtes seruyce, and holdyng also others hereditamentes of any other persone in socage or of the nature of socage tenure, may give and assure by his laste wyll or otherwyse two partes of þ is holde of þ kynge by knyghtes seruyce and two partes of that is holden of any other person by knyghtes seruyce, or as muche of eyther of them as shal amount to the full perely value of two partes and also all his landes and tenementes so holden in socage or of the tenure of socage tenure, shalynge as well to the kynge the wardeshyp of as much as shal extend to the clere perely value of þ thyrde parte of the same so holden of hym by knyghtes seruyce without diminution. &c. As also to the lordes of whome any of the sayde landes bene holden by knyghtes seruyce for wardeshyp as much of þ same as shal amount to þ clere perely value of þ thyrde part in maner above declared. And of that thyrde part which in any of the cases above sayd shal come to the kynge do nat amount to the clere perely value of the full. iiii. part of all the sayd hereditamentes wherof the kynge shalbe intitled to have þ custody or pyme reason: than the kynge maye take into his handes as much of thother two parties of the sayde hereditamentes as with that of the same hereditamentes remainynge in his handes shal make up the clere perely value of þ thyrde part thereof so to be had to hym in tytle of wardeshyp and pyme reason. And lyke benefyte to be given to every lord of whome any suche

Of testaments.

hereditament shall be holden by knyghtes seruyce concernynge only his thydde part for ryle of waite & wypp.

¶ Also al p'ss that sue theyr lybertyes for passessions reuerfions or reuaynders, & also paye rylfres and herettes lyke as they shulde haue done before þe making therof. And tynes for al lyenac'ns shalbe payde in þe chauncery by wryttes of entre in the post to be obtayned therfor comon reconerfies to be suffered of a ny landen holden of the kyng in chiefe in lyke maner as is vled vpon alenacions of landes so holden in chiefe by fyne of feoffement.

¶ Prouyded þe in suche cases where tynes for alenac'ns shalbe payde in þe chauncery for wryttes of entre in the post as is afore sayde now or ther fyne shalbe payde there for any such wryt.

¶ Item where ii. or more persons holde of the kyng by knyghtes seruyce jointlye to the and to the heyres of one of them, & he that hath the inherytaunce therof dyeth, his heyre byrnyng in age, the kyng shall haue the ward and marryage of the body of suche heyre the lyke of the freholder or freholders of the landes so holden by knyghtes seruyce notwithstandinge.

¶ Sauynge to all womē such ryght & ryle of dower as they ought to haue of any lāde or tenementes to be assigned vnto the out of a wypparier of the layd lādes or tenementes severed from the thydde part as is aboue sayd and not oherwyle. And sauynge also to the kyng the reuerfions of all suche tenementes in ioynture and dower immediatly after the death of such tenauntes, yf they shal happen to dye duringe the none age of the kynges wardes.

¶ Of maryages. enacted. In. 32. h. 8.

It is enacted, that fro the fyrst day of July in the yere of our Royde a thousande fyne hundredeth and fortye, all maryages within this church of Englande contracted betwene lawfull persons, as by this acte we declare al persons to be lawfull & be nat prohibited by Goddes lawe to mary, suche mariages beyng contracted & solēpnised in the face of the church & consummate with bodely knowlege or fruite of chylde or chylde beyng had therein betwene & parties so maryed shalbe demed & taken to be lawfull, good & indissoluble, notwithstandinge any precontracte of matrimonye nat consummate with bodely knowlege eyther of the persons so maryed or both shal have made in any other befoze the tyme of contractinge & maryage which is solēpnised and consummate or wherof such sure is ensued or may ensue as aforesaid and notwithstandinge any dispensacyon prescription, lawe or other thyng granted or confirmed by acte or otherwyle. And that no reservacyon or phibition, Goddes lawe except shal trouble or impeche any maryage without leaptical degrees And that no person shal asree the sayde fyrst day of July aforesayd, be admitted to any of the spiritual courtes within this the kynges realme, or any his other lādes and domynions, to any proceffe, pleas or allegacion contrarye to this acte

¶ Finis.

J.M.

Dee

Tabula.

Here it must be remembred that the
 nombze in this Table folowynge, doth expresse
 shewe the leafe where you shall fynde your desyre
 and this letter A maketh mencyon of the fyrste
 page oꝝ fynde and this letter B. the
 seconde page oꝝ fynde.

A.		C.	
Abatement of the wytte	folio xlv. b.	Coſidicions in dede	fo. xxv. b.
Accomp.	fo. xxxv. b.	Coſidicions in law	fo. xxix. b.
Acquyrrall.	fo. xxviii. a.	Coſidicions agaynſt þe lawe	folio. xxix. a.
Administratour	fo. lxi. a.	Coſidicions repugnante.	folio. xxix. b.
Agcs of man and woman.	folio. xxv. a.	Coſidicions impoſſible.	folio. xxix. b.
Ayde prayer	fo. xxvii. a.	Coſidicions wherof eltraſſers	gers ſhall take auantage.
Annuite	fo. xlviii. a.		folio. xxix. b.
Aſſeſſes in the handes of ex- ecutors	fo. xli. b.	Coſtomes	fo. xlii. a.
Aſſiſe.	fo. xxii. xxxi. b. l. a.	D.	
Returnemēt	fo. xxxi. a. xlix. b.	Damage in dower	fo. x. a.
Knowyſſo.	fo. xxv. b. liii. lvi. a.	Damages	fo. xxv. li. b.
B.		Double damages	fo. l. a.
Barre	fo. lvi. li. a.	Det	fo. liii. xxx. b. li. liii. a.
Baſe tenure	fo. vi. a.	Det agaynſte the ordynarye.	folio. xlii. a.
Baſterde	fo. xli. a. xliii. b.	Deuſſe by cuſtome of ſome broughe.	fo. xliii. b.
Burgage tenure	fo. xliii. a.	Deuſſe	fo. xi. b. xx. b.
C.		Diem clauſſe extremum.	folio. xxix. a.
Caſtel warde	fo. xxvi. b.	Diſcent	fo. xii. xv. a.
Chatell	fo. iii. a.	Diſclaymer	fo. xxxviii. b.
Chatelles real and perſonal	folio. vi. a.	Diſſgemētes	fo. xxxv. b.
Copp of court roll.	fo. liii. b.	Diſſeſſin	fo. xlviii. b.
Coynage	fo. xxxvii. a.		
Coſidicions.	fo. xxvii. b.		

Tabula.

Dilectin of ret letke fo 1. a.
 Distres fo. 4. b. 42. 48. 51. a.
 Distres for escuage fo. 34. a.
 Tenāte by Diuine seruyce.
 folio. xlii. b.
 Tenāt i dower fo. vi. viii. b.
 Dower by custome fo. 4. b.

E.

Eiectiōe firme fo. xxi. b.
 Electiōe custodie fo. xxi. b.
 Encloser fo 1. b.
 Eschete fo. xii. b.
 Escuage fo. xxxiii. b.
 Escuage certen fo xxxii. a.
 Escuage vncerten fo. 34. b.
 Esopel fo. xlviii. b.
 Executors fo. 1. b. lxi. a.
 Executors of theyr owne
 wyngs. fo lxi. b.
 Extynguysment fo. lxi. a.

F.

Faalte fo. xxxiii. b.
 Fee simple fo. xi. a.
 Fee taylor fo. xlii. a.
 Fee only defnyed fo. xxi. a.
 Fees of offyce fo. xi. b.
 Fynes fo. lvii. b.
 Fynes for alpenacions.
 folio. lxi. b.
 Forfeiture fo. lxi. b. a. xl. b.
 Formedone in the descendye
 folio. lb. b.
 Formedone in the reuerter.
 folio. lb. b.
 Formedone in y remaynder folio.

folio.

Forme of pledynge fo. 26. b.
 Frankalmoyne fo. xlii. a.
 Frankesee fo. xvi. b.
 Frankmariage fo. xlii. b. b.
 Freholde fo. lxi. a.

G.

Grauntes by corporations.
 folio. lxi. b.

H.

Hotche potte fo. xvi. b.
 Homage fo. xxi. b.
 Homage aūcestrel fo. 37. b.

I.

Infranchemētes fo. xli. a.
 Ingressu sine assensu Capit.
 folio. lxi. a.
 Ingressu sine assensu contras
 trū et cōlozorum fo. lxi. a.
 Inheritaūce fo. lxi. a.
 Inuētoir of goodes fo. 63. a.
 Joyntenaūtes fo. 18. 22. a.
 Joyntenaūtes of personell
 and real goodes fo. xxi. a.
 Joyntenaūtes of a warde.
 folio. xxi. a.
 Juris vtrū fo. lxi. a.
 Justices of peaces fo. 53. b.

K.

Kynghes seruyce fo. 32. b.

L.

Let ad collegiū fo. lxi. a.
 Limitation of prescription.
 folio. lxi. b.

Tabula.

Remuer a season fo. 3. 30. b.
Remueres fo. xxxviii. b.

M.
Ranumission fo. xlv. a.
Rarpage fo. 34. 66. a.

O.
Obligacion fo. 29. b.
Ordynarpe fo. xl. a.

P.
Particion e facienda fo. 27. a.
Perceners fo. xli. xvi. b.
Petite sergeante fo. 37. b.
Plapnt in assise fo. xlv. b.
Plees in dette fo. lli. b.
Plees in auowpe fo. li. b.
Prescription fo. xxiii. b.
Primier leas fo. 38. b. 64. a.
Probate of testametes
 folio lxii. a.

R.
Reddealin fo. l. b.
Reliefe fo. xxxvi. xlii. lxiii. a.
Release fo. xxiii. b.
Rent reserved fo. lli. b.
Rent charge graunted by a
 copntenaunt fo. xx. b.
Rentes fo. xlvii. a.
Rent charge fo. xlviii. a.
Rent secke fo. xlviii. a.
Rent seruyce can nar be ap
 poyponed fo. xlix. a.
Rent is incydent to a reuer

son. fo. xlix. b.
Replenyn fo. xlviii. a. l. b.
Rescous fo. xlv. l. a.
Royte of rescous. fo. 31. b.
Rescepte after default.
 folio xxiii. a.
Respyte of homage fo. xl. a.

S.
Scire facias fo. lviii. a.
Secode deliuerance fo. li. b.
Socage tenu fo. 41. b. 43. a.
Suertes fo. liii. lxii. b.
Surrendie fo. v. a.
Surrendye of the olde leas.
 folio lli. a.
Surruptiour holdethe place.
 folio xlviii. b.
Suspence fo. xxxi. a.

T.
Tenaunt for yeres fo. lli. b.
Tenaunt for lyfe fo. vi. b.
Tenaunt by the curtelpe.
 folio vi. vii. viii. b.
Tenaunt by coppe of courte
 rolle fo. iiii. b.
Tenantes in common
 folio xlviii. a. xli. b.
Tenaunt after possibillite of
 pssue extynge fo. xv. b.
Tenaunt at wpyll fo. llii. b.
Testamēt a wpylles. fo. xl. b.
Trespas fo. llii. v. xxi. b.

Tabula.

Value of mariage	fo. 36 a.	Wager of lawe	fo. lxi. b.
Wyllayne in grosse	fo. xlv. b.	Warde	fo. xxviii. b.
Willaine regardant	fo. xlv. b.	Warrantie	fo. xxviii. a.
Wyllenage	fo. xliii. b.	Waste	fo. lxxxviii. b.
Wouches	fo. xxxviii. b.	Waste dispersive	fo. lxxxviii. b.
	W.	Folio	xxv. b.

¶ Finis Tabule.
W. b.

Imprented at
London in fletestrete at the signe
of the George next to saynt Dunstones
churche by Wyllyam Wyddylton.
In the yere of our Lorde god.
M. D. xlvii. The. xix. day
of Marche.





Itus (secundum Ciceronem) sum
cuique tribit
The law (as Justinian Emperor said) is
a constant and permanent rule to
be obeyed man for man.

E

21mm

Do) 10
1043